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LEGISLATURE OF ONTARIO  
2200  
I  
#34  
Ontario Legislative Assembly. Select Committee  
on the New Ontario Agdo Building (35)  
Hearings. v. 6. July 5 - July 10/73

1/6  
LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Thursday, July 5, 1973

Morning session

261-285





SELECT COMMITTEE - ~~MMN~~ HYDRO HEADQUARTERS

H 961-1

The committee met at 10:15 a.m., in the members' board room.

Mr. Chairman: I call the meeting to order and ask Mr. Genest to proceed with the statement which he has requested that ~~we~~ <sup>he</sup> have a moment or two to make.

Mr. Genest: Yes Mr. Chairman, I have asked leave to make a statement to the committee expressing some grave concern over the interpretation that could be placed, an interpretation that I am ~~am~~ sure was not intended by Mr. Shibley yesterday, but nevertheless, one which is open to be placed on remarks he made towards the conclusion of yesterday's proceedings, with reference to Mr. Gathercole's evidence, and to the possible withholding of information by Hydro. I think in order to illustrate the point I am trying to make Mr. Chairman, I would like to read to you and to distribute to committee members, a transcript of news reports which were broadcast throughout the whole of yesterday evening over ~~the~~ radio station CKEY, and I wonder if I could ask the Clerk to distribute copies of this document.

I would like to read it out loud, Mr. Chairman. The headline when the news broadcast started said: "Hydro Chairman accused of withholding information", and ~~in~~ <sup>then</sup> the body of the ~~statement~~ <sup>comment</sup> was this, and as I say it was repeated from ~~6~~ <sup>6</sup> o'clock through at least 11 o'clock last night to all the listeners of CKEY.

"Legal counsel to the Legislature's Hydro investigation today accused Hydro Chairman George Gathercole of ~~the~~ withholding important information during previous testimony.

<sup>It</sup> It was one of the few times Richard Shibley, legislative committee legal counsel, directed his irritation toward one person. Mr. Shibley complained he's been forced to seek facts through the back door because Hydro Chairman George Gathercole did not offer complete testimony during his previous appearance. Gathercole had been asked why Hydro prepared a detailed explanation last November, a justification for awarding its head office

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(Mr. Genest)

contract to Canada Square which was sent to James Fleck, the Premier's chief executive officer. Gathercole's reply attributed the Hydro document to general questions being raised, while actually it was requested by Mr. Fleck from the Premier's office. And it was requested after Fleck learned of discontent from a leading developer and after Fleck heard rumours that a newspaper investigation of the Hydro contract was under way. Legal counsel Shibley wanted to know what motivated Mr. Gathercole to withhold information, later softening his remarks by emphasizing he was not drawing inferences. Some committee members acknowledged the explanation sought by the Premier's office might have been under preparation anyway. But a prevailing sentiment was expressed by Sarnia Liberal James Bullbrook when he remarked "George Gathercole's lack of recollection seems to be infectious?"

And that was the report by Howard English. Now my concern Mr. Chairman is this; I am not -- yesterday I say was a long day. This came at the end of <sup>the</sup> day, I think we were tired. But if you read in Hansard Mr. Shibley's remarks, it is a possible interpretation that can be drawn from his remarks that he had concluded, and I am sure he didn't mean to convey this, but ~~that~~ it is a possible interpretation, that he had concluded, it was his opinion, that Mr. Gathercole had withheld information and <sup>indeed</sup> ~~the~~ Hydro people had withheld information. It seems to me, Mr. Chairman, that in view of the nature of these proceedings, it is extremely dangerous to people's reputation to have statements made of that kind.

Tape 962 follows



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fvk

(Mr. Genest)

~~..... It is extremely dangerous to people's reputation to have statements made of that kind in the course of proceedings before the witness is examined and before the evidence is all in.~~

I recognize that it may be the unpleasant duty of the committee when it writes its report, to make reflections on persons and people, but, surely, that must not be done in advance and before the case is all in. I ask the committee, and I especially ask Mr. Shibley, to be very careful, <sup>by</sup> ~~when~~ making remarks of this kind, not to cast aspersions on the reputation of people who are before this committee.

I have in mind especially Mr. Gathercole who is a man who has devoted his entire adult life to the public service of this province; has had an extremely distinguished career; has never had a cloud of suspicion cast on his integrity. He can be destroyed by a press report of this kind that can be drawn, or inferred perhaps improperly, ~~but~~ but that can be taken from remarks made in this committee. It is my respectful submission, and ~~my~~ my respectful request, that the committee, and its counsel, be extremely careful in laying out plans of evidence, or who to call, not to say that there are inferences that can be drawn, <sup>that</sup> ~~there~~ there may be a conspiracy here, <sup>or</sup> ~~it~~ it may be that so-and-so is lying. I think that if that is the conclusion that is going to be drawn it should be drawn at the end of this case by the committee in its report and not by inadvertent statements made in the course of the proceedings which, as I said before, can effectively destroy reputations which have been earned through ~~a~~ long and distinguished service.

Those are my submissions, Mr. Chairman.

Mr. Chairman: Thank you, Mr. Genest. I appreciate the remarks that you have made, regrettably. I, too, have found fault from time to time with some newspaper and media coverage of our meetings. These things have to be done in public. I've said one or two times that it's not a trial, that it is an inquiry and <sup>for that reason,</sup> ~~although~~ it takes the form, sometimes, as a trial, some of this information goes out

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fvk

(Mr. Chairman)

to the public in a way that is regrettable. I think that the ~~the~~ radio report that you were referring to was regrettable. I'm sorry for it. Nobody comes out of these hearings bigger. It whittles everybody down a little bit, I'm afraid, and for that reason I am sure that the committee members, ~~and~~ none of us, are enjoying it. But It's a job we've been given to ~~to~~ do and we'll try to conduct ourselves along the lines that you have suggested so that the inference can't be made, at this time, from remarks that we might make here. I thank you for it.

Mr. Genest: Thank you, Mr. Chairman.

Mr. Shibley: Mr. Chairman, I feel I should respond to that.

I want to go on record as indicating to everyone here present, including the press, that they should not infer any conclusion from the form which any question which I put to a witness ~~will~~ take.

The form of questions will vary from time to time. Sometimes they can be put very politely. Sometimes they can be put very directly. But in circumstances when witnesses are evasive, and I don't suggest that yesterday was one of those occasions, you will find that I intend, as I have in the past, to lean towards a questioning cross-examination form of ~~questioning~~ and necessarily that line of questioning does tend to suggest <sup>a</sup> ~~the~~ conclusion in my mind.

The conclusions to be reached by this committee are for the committee and not for me as its counsel. My function, I view to be that of recognizing possible conclusions respecting which I must ask questions which amount to an inquiry into those possibilities that the committee may make its selection at the conclusion of the hearing.

With respect to the particular exchange between myself and Mr. Fleck yesterday, I do not agree that anything which formed part of my questions to ~~the~~ Mr. Fleck, could have been taken in the context ascribed to it, but, rather, I feel the question was put very fairly, so that the alternatives, ~~in terms of interpreting~~



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(Mr. Shibley)

~~question was put to him, to which he answered~~  
terms of interpreting Mr. Gathercole's earlier testimony,  
were available. I reference Handed tape 952, page 2, July 4,  
the last part of that page, and the question I put which  
gave rise to Mr. Genest's complaint was:

"Mr. Shibley: Well, Mr. Fleck, I'll make my  
purpose perfectly clear to everyone as I've been asked to  
do numerous times, because I gather my line of thinking  
isn't always that clear.

"I want to know whether there was any motivation  
~~on~~<sup>the</sup> part of Mr. Gathercole and other people within Hydro in  
failing to disclose to me the circumstances respecting the  
preparation of the November 15 document, or whether they  
simply unwittingly believed that Mr. Gathercole has said  
in the evidence that I've read to you. In that connection,  
I am concerned to know ~~we~~ whether you had any ~~the~~ discussion  
with members of Hydro, and you said you had a discussion  
with Mr. McCallum, that would alert them to the actual cir-  
cumstances for the preparation of that document, because  
if so, then I intend to find out why they considered it  
necessary not to disclose those circumstances to me."

I think the question is perfectly plain in the  
opportunity it affords to everyone involved to reach one  
of two alternatives, ~~conclusions~~, namely, that Mr. Gathercole  
and others in Hydro had unwittingly overlooked the circum-  
stances respecting which that document had been compiled;  
or, if this witness had been in communication with them  
and alerted them to the circumstance then, of course, I  
intend to pursue it further with him. I must tell Mr.  
Genest and other members of this committee, I intend to  
pursue the matter further this morning with Mr. Fleck and  
I don't back away from this line of examination for the  
reason that the press or the radio media may place inter-  
pretations upon my line <sup>of</sup> questioning in the form of conclusions

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(Mr. Shibley)

before those conclusions are properly made in the sense that all of the evidence is in. I can't ~~be~~ <sup>be</sup> under that restraint and I am not prepared to be under that restraint.

It was shortly after that, I think, on the next page, that Mr. Genest suggested that there was an innuendo ~~here which he presented very much like the exchange~~ between us. It is at the top of the very next page.

I am again ~~concerned~~ <sup>concerned</sup> as to ~~this~~ this. I do not intend any innuendo referable to Mr. McCallum. My questioning is not directed to what Mr. McCallum knew but rather what was known by the people within Hydro and directed to the testimony that the people from Hydro gave and whether at the time they gave their testimony they ~~were~~ <sup>were</sup> ~~afforded~~ <sup>afforded</sup> of information which was consistent with what they stated in that witness box.

That's the position I take as your committee counsel.

Mr. Genest: Well I have one additional remark to make in regard to that. I appreciate Mr. Shibley's point, but the point I want to make is that by suggesting that one of the alternatives that's open on the facts is that Mr. Gathercole told falsehoods or was a party to a conspiracy to suppress evidence, ~~a~~ <sup>a</sup> great deal of damage is done. Now I can't stop Mr. Shibley from making the suggestion, ~~but~~ what I ask him to do is when he is making that kind of suggestion, if he does, he ought to do it only in the gravest of circumstances where there is some evidence to indicate support for that possibility. It didn't seem to me that in these circumstances there was that sort of support. Now he may have a line of questioning of which I am not aware that indicates that there may be support for it. But all I ask is that the committee and ~~the~~ <sup>the</sup> counsel be extremely careful when ~~presenting~~ <sup>presenting</sup>

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(Mr. Genest)

~~indicates that there may be support for it, but all I ask~~  
~~is that the committee and counsel be extremely careful when~~  
presenting that kind of choice because the very presentation  
of the choice casts a reflection on the people involved,  
and the consequences are very grave because sometimes the  
damage is done when the reflection is made, and people don't  
listen to what has gone on afterward. That is the only point  
I wanted to make.

Mr. Chairman: Thank you, Mr. Genest. I think you  
have dealt ~~on~~ the matter sufficiently, your point has been made.  
Do you want to say something, Mr. Bullbrook?

Mr. Bullbrook: If you will permit me, yes. In that  
Mr. Genest did, quite justifiably, refer his statement and his  
comments both to counsel and the committee, and since I am  
mentioned here, I do just want to say one thing.

I do recognize, Mr. Chairman, the umbrage that Mr.  
Genest takes as counsel on behalf of his client. ~~but we~~  
~~In~~ connection with my comment about the lack of recollection  
being infectious, I am not going to again catalogue the lack of  
recollection that we have, but I must say - and I don't mean to  
offend again - the lack of recollection in the giving of evidence  
is a twofold thing.

We have made it amply clear, Mr. Chairman, you have  
and counsel and the rest, that we don't expect specifics ~~but we~~  
have been faced from time to time with <sup>a</sup> ~~the~~ lack of recollection  
of certain circumstances that seemed to be, to say the least,  
important, ~~but~~ I wanted to say that if I have caused any undue  
embarrassment because of that comment to Mr. Gathercole then I  
apologize to him directly.

Mr. Genest: Mr. Bullbrook, I felt that your statement  
was stated out of context. I thought that the statement you



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(Mr. Genest)

made yesterday, which this was at the tail end of, was really intended to put the thing on a fair plane, so I -----

Mr. Bullbrook: Yes, I am going to close by saying this, when they do say <sup>that</sup> some committee members acknowledged the explanation sought by the Premier's office might have been under preparation anyway, it was I who brought to the attention of counsel that I consider <sup>ed</sup> that that coincidental preparation of that particular exhibit might well not have been motivated by the call, so I thank you.

Mr. Chairman: Thank you, Mr. Bullbrook. Mr. Shibley, if you would proceed with Mr. Fleck?

Mr. Renwick: Mr. Chairman, I am concerned about the point. I don't want to prolong it, but I can't let it go by. In the light of the whole of the evidence of yesterday afternoon I think it is perfectly clear that the news broadcast of CKEY is irresponsible. I don't think that anybody having read Mr. Shibley's remarks at the bottom of page 959-2 of Hansard of July 4th, <sup>55</sup> can ~~possibly~~ have drawn any conclusion that there was any accusation by anyone, and because I think on this particular important issue the record should be perfectly clear, I am going to quote what Mr. Shibley said:

"Mr. Chairman, there is one thing that concerns me a little bit. I am sitting here reflecting very carefully upon what Mr. Genest has said and the last thing I want to do is to be unfair or create wrong impressions referable to anyone on the Hydro side who have been more than co-operative.

"I am concerned that my last line of examination of this witness may lead people to jump to conclusions pending the completion of the evidence. I felt it essential to put the questions to this witness around whom much turned in this area of examination.

"I want to go on record and be perfectly understood

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M.F.

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(Mr. Renwick)

that at the moment I am simply conducting an inquiry as to whether or not the failure to disclose the circumstances for the creation of the November 15, 1972, document was simply inadvertence, oversight and innocent, or on the other hand was in fact part of a course of dealing with matters such that those circumstances would not be brought to the attention of this committee.

"I am concerned about it, I have got Mr. Fleck's position and the position of the Premier's office on record. I intend to get Hydro's position a matter of record. We have got ~~the~~ Mr. Cronyn's testimony already a matter of record as to timing and so on, and again, it is another issue about which this committee ultimately may, at least inferentially, have to make a finding"

It seems to me that in the light of what transpired at the end of ~~the~~ the hearing yesterday afternoon that so far as I am concerned the CKEY announcement was irresponsible and, ~~say~~ in my judgment, will have no effect on the way I conduct myself in this committee either as I have in the past, or am now, and will in the future.

Mr. Chairman: Thank you, Mr. Renwick.

~~Mr. Stanley: Mr. Fleck - ask him to stay for the moment.~~

Tape H - 965 follows

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10.35 - 10.40 a.m.  
M.R.

Mr. Shibley:

Mr. Fleck, I want to return, for the moment, to the circumstance of the first discussion which you had with me by telephone, referable to the evidence that you would be giving respecting the timing of your meeting with Mr. Cronyn. Do you remember that occasion?

Mr. Fleck: Is that before or after I looked at the Day-Timers? I believe my initial recollection was the early in November recollection <sup>but</sup> ~~that~~ then I became more specific on when I found the notations in the Day-Timer.

Mr. Shibley: Yes. I just want to make it clear to the committee that on that occasion, which I believe was on Friday, July 1st, is that correct?

Mr. Fleck: We spoke then, yes.

Mr. Shibley: Yes. That was the first occasion we had a telephone conference?

Mr. Fleck: Correct.

Mr. Shibley: And on that occasion you advised me that the timing of your meeting with Mr. Cronyn was necessarily in the first half of November, 1972. Is that correct?

Mr. Fleck: That is correct.

Mr. Shibley: And you were able, you said, to identify the point of time, or the period of time, by referring to the date of the memorandum that you had elicited from Hydro consequential, in part, upon your previous discussions with Mr. Cronyn?

Mr. Fleck: Yes, that was a part of it.

Mr. Shibley: Now, on that occasion, you made no reference to me of any entry in your Day-Timer, which would more specifically identify the time of the meeting with Mr. Cronyn. Is that correct?

Mr. Fleck: That is correct.

Mr. Shibley: And, in fact, the Day-Timer was referenced, I believe, first to me in a further telephone conversation of the night before last. Is that correct?



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M.R.

Mr. Fleck: That is correct.

Mr. Shibley: And then, shown to me yesterday morning at our 8.30 appointment?

Mr. Fleck: Correct.

Mr. Shibley: Now, then, the Day-Timer entry, Mr. Fleck, indicates not only a meeting with Mr. Cronyn, is that correct?

Mr. Fleck: Excuse me; it indicates that I have discussed whether it's - they are words that would remind me of something that has happened. That is correct.

Mr. Shibley: Right. Now that Day-Timer entry, however, doesn't simply mention Mr. Cronyn which would leave it equivocal as to what you discussed with him, does it?

Mr. Fleck: It mentions - it has his initials and it also has the word "Hydro" and ~~the~~ it has the word "Ellis-Don".

Mr. Shibley: That's right. So that from the entry in the Day-Timer, it's unequivocally clear that the three pieces of information - from the three pieces of information - that it was on or before that date that you had your discussions with Mr. Cronyn?

Mr. Fleck: I believe I so indicated that yesterday.

Mr. Shibley: Yes. Now, I'd like to know why, when you first discussed the matter with me on July 1st, you considered it necessary to employ the November 15th document in order to establish the period of time, when, in fact, you were in possession of a Day-Timer record, which, with much more precision and without equivocation, identifies the period in question.

Mr. Fleck: Two reasons I can think of; One was that I believe I used the document only as one reference point and that document, of course, I became more aware of as the - in the review of documents in the testimony.

The other <sup>5</sup> and really the main reason, that I was sure that it was sometime before the middle of November


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M.R.

(Mr. Fleck)

was that, if you remember, I had said that I was sure there  
was a significant period of time, something that consciously  
in my mind I saw it as a significant period of time,

~~concerning my first knowledge and the growth of~~



H-966 to follow

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V.H.

(Mr. Fleck)

~~you see in my mind I saw a significant period of time~~  
separating my first knowledge from Mr. Cronyn of Ellis-Don's situation and my later knowledge of some financial information that lead me to arrive at a conclusion about Ellis-Don's prospects in terms of the bid that they had put in at that time. I knew that the first time I was aware of the financial information was sometime in December subsequent to a meeting with Mr. Candy and subsequent to my receiving the draft document of December 4 and, as I said, I knew it just wasn't a few days, therefore I knew it couldn't have been the last week in November, which I guess was one of the times that had been suggested by Mr. Cronyn. I thought it was somewhat earlier because of the separation. Then I was also able to reference it in my mind because of this document because I did remember that I had asked for a narrative report on the Hydro building, so that I was able to reference it with that in addition.

Mr. Shibley: What I'm particularly interested to know at this time, however, Mr. Fleck, why in your initial communication with me, the only indications you referred to was the November 15 document?

Mr. Fleck: Well, again, my recollections of a few days ago should be ~~some~~ <sup>that have</sup> somewhat better than ~~as~~ <sup>Page 20</sup> will be of a year ago. My recollection is that I did cover both subjects, but that I covered this interval of time that I was talking about, a recognizable significant period of time separating them. And the other would be that it is a touchstone that had been developed and had been produced in ~~an~~ <sup>that have</sup> evidence and ~~it~~ <sup>it</sup> seemed to be agreement that there had been a document and that that document had been received at a particular point in time and certainly it was my recollection that I had asked for a report and that the report had come after the point in time that I had asked ~~for~~ <sup>for</sup> it. I knew, of course, that that came after I had spoken to Mr. Cronyn,



(Mr. Fleck)

because the conversation with Mr. Cronyn was one of the reasons I had given, <sup>and</sup> I had given another ~~way~~ one of the reasons that I had asked for the narrative.

Mr. Shibley: Mr. Fleck, I am not sure that you are answering the question I am putting to you. I think it's correct, is it not, that perhaps the salient item of discussion <sup>during</sup> ~~in~~ the course of that initial telephone conference was the timing of Mr. Cronyn's discussion with you respecting Ellis-Don?

Mr. Fleck: Yes.

Mr. Shibley: And you repeatedly referenced the significance of the document of November 15 as establishing the time ~~was~~ being earlier than the 15th November. Is that correct?

Mr. Fleck: Yes.

Mr. Shibley: You at no time in that conversation made reference to the information available from your Day-Timer that in fact that meeting took place on or before November 7, is that correct?

Mr. Fleck: That is correct. I had not seen it at that time. I mean, I had not gone <sup>through</sup> ~~by~~ my Day-Timer and, you are quite correct.

Mr. Shibley: Notwithstanding <sup>that</sup> when that communication was established, one of the ~~guts~~ <sup>principal</sup> reasons for the communication was to alert me to the fact that Cronyn was wrong as to the timing of that meeting, you had not bothered to check your Day-Timer in that respect?

Mr. Fleck: That is correct.

Mr. Shibley: Had you discussed with Mr. Cronyn the time of your meeting with him prior to your giving evidence, I am sorry, prior to Mr. Cronyn giving evidence on Tuesday of this week? That would be yes.

Mr. Fleck: Tuesday of this week? I am sure that I had.

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Mr. Shibley: Yes, you had.

Mr. Fleck: Sure. The last time he was here, yes.

No, No. We had discussed ~~this~~ prior to that.

Mr. Chairman: Monday was a holiday.

Mr. Shibley: And by that time, had you double-checked your Day-Timer?

Mr. Fleck: No.

Mr. Shibley: You had not?

Mr. Fleck: No. But I had referred again to the November 15 document. That was, I had two items, the separation of time that I mentioned that convinced me that it must have been before and I had the additional bit of information about the document. But I had not, at that time; in fact I was surprised to find as much information in the Day-Timer as I did. Pleasantly surprised.

Mr. Shibley: All right.

Mr. Fleck: But that was not until a couple of nights ago that I went through, and in ~~fact~~ I asked Mr. Rowan, I think I was out of town and it was by ~~way~~ telephone. Yes, I was in Thunder Bay on the Monday and I telephoned him and I told him where the little box was down in the bottom and I said, "See if you can find the ~~some~~ Day-Timers for those months. I don't have all of them. The set is not complete. See what you can find. Send it up in the car

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PLG

(Mr. Fleck)

~~and the Day Times for those months. I can't have all of  
them. The set is not complete. The most you can find, send  
it over to me because I want to go through it this evening.~~

Mr. Shibley: Let's get back to the conversation with Mr. Cronyn over the long weekend. You said you did discuss with him the timing of your conversation with him in November of 1972 referable to Ellis-Don, so that as at the time he gave testimony before this committee, he was alert to what you were about to say in that respect?

Mr. Fleck: Yes. I told him I thought his recollection was wrong and that it was earlier, and he said at the time that that was still his best recollection but that he hadn't ruled out the possibility that it could be earlier; I think, as I remember the conversation.

Mr. Shibley: By the way, did you discuss with him the letter from Smith to Mr. Cronyn of July 14?

Mr. Fleck: After I saw it in the press, yes I asked him about that.

Mr. Shibley: Did he have anything to say to you about that letter?

Mr. Fleck: Just really essentially what he said here.

Mr. Shibley: Well, did he say to you -- what did he say to you?

Mr. Fleck: Well, I don't think there was anything that was said -- I guess it wouldn't matter whether it was said in confidence or not. I asked him about the letter. It was the first I had heard of it and it was a rather interesting letter and I would see how it would cause embarrassment and he said, "If I had been asked before the letter was produced, if I had been asked if I had received the letter," he said, "I think that might have led me to recollect I received the letter, but if I had been asked what was in the letter, what were the contents of the letter," he said, "I wouldn't have been able to recall it. Sure, once I see the letter, then I



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(Mr. Fleck)

do remember the contents, "But without that, since he had thrown it away at the time and didn't consider it ~~as~~ <sup>of</sup> significant, ~~ce~~ he wouldn't have remembered the contents, and that, to me, seemed reasonable.

Mr. Shibley: Was there any indication in that exchange between you that in the course of his testimony he had some recollection of the letter but not of its contents?

Mr. Fleck: No.

Mr. Shibley: Now, then, have you had further discussion, with Mr. Cronyn respecting the precise timing of your discussion with him in November, relative to the Ellis-Don complaint?

Mr. Fleck: Yes. One of the questions that was given to me last night, I believe by Mr. Bell was it, or Mr. Moore, there were a couple written out and it was: "Attempted <sup>at</sup> recollection of meeting of the first week of November '72 between the hon. William Davis and John Cronyn."

So I was checking, of course, in the Premier's records and at the same time I called John. I might add I found out that the Premier was away during the period November 1 to November 8 and I have some information on that; but not only that, when I spoke with John and mentioned the 7th as being the date in my Day-Timer, and I have not had any previous discussion with him on that, again because I hadn't looked at it until the day before. ~~He~~ <sup>he</sup> said,

"Well that's interesting,"  
because <sup>he</sup> he said,

"I think I am in Florida on November 7 and how could we have had a discussion on November 7?"

So I said,

"Well, I believe that I am all right and my testimony is consistent there because I didn't say it was ~~the~~ the 7th. I said it couldn't have been later than the ~~the~~ 7th and I presumed it ~~was~~ was the 7th


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PLGMr. Fleck

because the note was in my Day-Timer on that particular day."  
and I said;

"When was it that you went away?"

~~and~~ He said he thought it was the 5th or 6th but that he would check this out, so those are the two bits of information that came out of that call. The one would be that it would not have been possible for the Premier to have had a meeting with Mr. Cronyn during the first week in November; because of our phone call earlier this morning.

Mr. Shibley: Yes, well, we'll get to that. I just want to finish with Mr. Cronyn's discussion with you first as to the precise date <sup>of</sup> his conversation with you. Do I take it from other entries in your  ~~diary~~ Day-Timer, made on the same page as <sup>(159)</sup> for November 7, that you are satisfied that the ~~discussion with~~



Tape H 968 follows

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10:50 - 10:55 am.  
M.S.

(Mr. Shibley)

~~November 7, 1973, the date of the discussion with Mr.~~  
Cronyn, in any event, took place prior to November 7?

Mr. Fleck: Yes, I'm satisfied. I guess I'm becoming more careful as I go along. Let me say this, I just can't imagine my writing it in at that point in time if the conversation took place later, ~~Because there are other entries surrounding this~~ particular entry. It is not at the end of a list, it is not at the beginning of a list, it's in the middle of several items.

Mr. Shibley: That's right.

Mr. Fleck: ~~That~~ I'm sure I could tie down to being around that period. So, I'm confident, in my mind, ~~that~~ that it could not have taken place after November 7.

Mr. Shibley: All right. Now, on that footing and because Mr. Cronyn was in Florida from November 5 on, can we take it that your discussion with him was on or before November 4?

Mr. Fleck: That would be the conclusion that I would come to.

Mr. Shibley: But within the month of November?

Mr. Fleck: I would be of the opinion that it would be very close, in time, to when I'm making the entry, because I don't know why I'd be carrying it around in my head during that period in time. But I now am unable to be precise, obviously, because we've ruled out November 7 and I'm trying to check the records to see if there is any specific appointment. But the trouble is, I'm sure, that the time that John and I met is, in all likelihood, one of his late~~y~~ afternoon drop-ins that are not set up as a specific appointment, that at such and such a time he's coming in to see me. So, ~~what~~ what we can, I'm sure, most likely do is establish what day he was in Toronto, ~~the last day~~ that he would be in Toronto, or the days he was in Toronto during the previous couple of weeks, ~~and perhaps~~, on that basis, be able to pin down what would be the first opportunity, or the last opportunity. I can't be precise. I can be precise in the sense

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(Mr. Fleck)

that it, in my mind, couldn't be after November 7. It now can't be November 7, itself, because Mr. Cronyn, I presume, would be able to verify that he was not in Toronto on that day.

Mr. Shibley: Mr. Fleck, you recognize, I trust, that in light of the next question I'm about to ask you, the significance of attempting to determine, with even more precision, the time of that meeting with Mr. Cronyn. He gave evidence, previously, that he had met with Premier Davis in the month of November, and prior to the meeting with you. And we are getting now down to a --

Mr. Fleck: There aren't many days left in November.

Mr. Shibley: That's right.

Mr. Fleck: I recognize that.

Mr. Shibley: It's taken me a long time, but I've eliminated all but the first four days of November.

Mr. Fleck: And I can help you eliminate those.

Mr. Shibley: Now, that's fine. Because in respect of Premier Davis, I am most anxious now that you give this committee the information that you have been able to elicit from your own investigation, as to his activities during that period of time.

Mr. Fleck: Well, on Wednesday, November 1, after the Policy and Priorities Board meeting, which normally takes place on a Wednesday afternoon, he left on American Airlines flight 47 at 5:25 p.m.

Mr. Shibley: That was what day?

Mr. Fleck: November 1, 1972. It was a Wednesday. Then he returns on Wednesday, November 8, on American Airlines 474, leaving San Francisco at 11:00 a.m. and arriving in Toronto at 8:33 p.m.

Mr. Shibley: So that, except for the ~~first~~ <sup>last</sup> of November and only until 5:25 of that day, the Premier was not in his office in the critical period we're talking about?

Mr. Fleck: That is correct.



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Mr. Shibley: So, ~~if~~ if Mr. Cronyn's evidence is to remain consistent, he would have had to meet with the Premier on November 1?

Mr. Fleck: If it is accurate, in that he had a conversation in the month of November prior to having a conversation with myself.

Mr. Shibley: ~~Now~~ Mr. Fleck, you previously testified that by reason of the position you hold you are highly informed and normally in attendance at all meetings held by the Premier. Is that not correct?

~~Mr. Fleck: Yes, that is correct.~~  
~~Mr. Shibley: That is all right.~~  
~~Mr. Fleck: Yes, that is correct.~~  
~~Mr. Shibley: That is all right.~~

Tape H 969 follows

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(Mr. Shibley)

~~Information and is generally in the nature of a discussion that~~  
~~are held by the Premier and Mr. Cronyn at which he held his discussion~~

Mr. Fleck: Virtually all. There would, of course, be some meetings held with ministers at which I might not be present but, in terms of outside people coming in, yes.

Mr. Shibley: And in terms of Mr. Cronyn coming in you would be in attendance?

Mr. Fleck: Yes.

Mr. Shibley: Can you give us your best recollection - I'm sorry. Have you no record of the date of the appointment between the Premier and Mr. Cronyn at which he held his discussion with him?

Mr. Fleck: No, because I do not have a recollection of that particular discussion. Again, this would be my understanding out of conversations with Mr. Cronyn, that this was a discussion that wasn't necessarily again a formal discussion; that it might have been in the context of one of the Hydro task force reports and discussions of it and that this would be a part of that particular discussion. I do not have a recollection of that subject having come up in a discussion of Hydro but, it is conceivable that it could have.

Mr. Shibley: Would Mr. Cronyn have been afforded an appointment which would be recorded in the Premier's appointment book?

Mr. Fleck: Yes.

Mr. Shibley: And would not a review of that appointment book establish -

Mr. Fleck: It would establish times when he would have been talking with the Premier, yes.

Mr. Shibley: Yes. Then, have you not examined those books?

Mr. Fleck: I have but not as - I have in terms of Gathercole and they are doing that in terms of Cronyn at this point in time.

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Mr. Shibley: Thank you.

Mr. Fleck: I do have some. I know there is one, for instance, in ~~late~~ <sup>late</sup> September. I have two or three notes but I don't know that they're fully inclusive and I presume that's what you want.

Mr. Chairman: Mr. Glen Hodgson.

Mr. R.G. Hodgson: Mr. Shibley, I wonder if the Policies and Priorities Board meeting would have any indication that Mr. Cronyn, or the Task ~~Force~~ <sup>Force</sup> ~~on~~ <sup>on</sup> ~~Hydro~~, would be the discussion of that day?

Mr. Fleck: ~~Yes~~ Oh yes, no, we would be able to determine that. But I presume it's not just November 1 you want.

Mr. Shibley: No, I want now a complete list.

Mr. Fleck: That's right.

Mr. Shibley: All right.

Mr. Fleck: But it would be quite possible to determine the point.

Mr. Deans: *Could you ask the question whether or not that*  
~~was a question that was a particular~~  
*of discussion*  
topic/at that meeting?

Mr. Fleck: I don't know. I can find out.

Mr. Shibley: He's going to investigate that. I took it that you're going to ~~investigate~~ <sup>not only</sup> ~~investigate~~ <sup>investigate</sup> ~~the~~ <sup>the</sup> ~~subject matter~~ <sup>subject matter</sup> for which the ~~task~~ appointments were set up?

Mr. Fleck: Yes, where that is possible, yes.

Mr. Renwick: Mr. Chairman,

Mr. Chairman: Mr. Renwick.

Mr. Renwick: That presumably dates back now into the latter part of October.

Mr. Fleck: Sure, that's what I was thinking. In fact I was going to look at September and October.

Mr. Shibley: I want to read to you, Mr. Fleck, the evidence of Mr. Manthorpe respecting a call which he said he received from an anonymous caller later identified as Mr. Smith. I should tell you that Mr. Manthorpe gave varying evidence as to the time of that call although, ultimately, he said that he was certain, I think, that it was within the week of November 27 and

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(Mr. Shibley)

he zeroed in on that week as the week within which the call was received by ~~him~~ <sup>it</sup> him. I want to put/in the context that he had given other evidence that conflicted with that in <sup>the</sup> a sense of whether it was before or after the first of December.

The evidence that I wish to read to you, and to the committee to refresh their memories, is that in Hansard, Tape 703, page two, June 21 afternoon session.

Mr. Chairman: What was that tape number?

Mr. Shibley: June 21, afternoon session, tape 703, page two.

Mr. Fleck: I have that.

~~Mr. Shibley: Thank you. A quarter of the way down the page, or just at the top.~~

(Tape H-970 follows)



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~~Mr. Fleck:~~

Mr. Shibley: Thank you. A quarter of the way down the page or just at the top:

"Mr. Shibley: And what did he go on to say to you?

"Mr. Manthorpe: Well, I said to him then that it was strange that he should mention that as I had just started looking at that particular deal, about two weeks before.

"Mr. Shibley: What had caused you to start looking at that deal two weeks before?

"Mr. Manthorpe: Rumours and information I was given during the course of looking at the Fidinam affair."

Then later on the page:

"Mr. Manthorpe: He then said the government is very nervous about that one. And then he said someone close to ..."

Mr. Fleck: Sorry, where is that?

Mr. Shibley: I'm sorry, it's down further on the same page, two-thirds down-

Mr. Fleck: Oh, yes, I have it.

Shibley: "Mr. Manthorpe: He then said the government is very nervous about that one. And then he said someone close to the Premier's office has called me and asked me to keep quiet about it.

"Mr. Shibley: Now, did he say this to you at the outset of his discussion with you?

"Mr. Manthorpe: Yes, it was very close to the beginning of the conversation, yes.

"Mr. Shibley: And do I take it then that he mentioned this in the context of saying, notwithstanding that he had received this communication, he was nevertheless prepared to discuss it with you?

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"Mr. Manthorpe: He indicated that he was very upset..."

~~And then I want to go on to Page 704-1, at the top of the page:~~ And then I want to go on to Page 704-1, at the top of the page:

"Mr. Manthorpe: No, I remember distinctly he said someone from the Premier's office. Now, whether he said to keep ~~quiet~~ <sup>quiet</sup> about it or to keep my mouth shut, I couldn't be absolutely certain about, but I think he used the first term that I mentioned.

"Mr. Shibley: I'm sorry, I was thinking of something else. Could you repeat that last answer?

"Mr. Manthorpe: No, I think he said to keep quiet about it. I don't think that he said to keep my mouth shut.

"Mr. Shibley: So that would you now restate, so that we can clearly have what he said, nothing more and nothing less and as precisely as you can.

"Mr. Manthorpe: From the beginning of the conversation or just that particular part?

"Mr. Shibley: No, just in respect to this particular statement part.

"Mr. Manthorpe: All right; he said the government was nervous about it, about the whole situation with Hydro, and I said some comment like, "Is that so?" and he said, "Yes, someone close to the Premier's office has called me and told me to keep ~~quite~~ quiet about it". He had initially, of course, identified himself as the president of one of the companies that failed to get the contract".

Now, Mr. Fleck, I take it that persons such as yourself and Mr. Cronyn and perhaps others that we'll get to later, were, in fact, concerned about this matter in November of 1972?

Mr. Fleck: Well, concerned, as I would reiterate in the previous evidence, ~~I~~ <sup>he</sup> had heard a rumour that ~~press~~ <sup>press</sup> were interested in it and did have the information that I had received from Mr. Cronyn.

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(Mr. Fleck)

I was certainly concerned enough to get a report on it.

Mr. Shibley: That's right. So that the report that Manthorpe gives as to what Smith told him, that the government was nervous about it, about the whole situation ~~was~~ with Hydro, would be consistent with your own concern which brought about the requisitioning of that document?

Mr. Fleck: I have a problem with nervous. I guess just to me it seems to <sup>be common sense</sup> ~~become obvious~~, that if there is anything about which there may be any reflection on the government one tries to find out more about it and tries to make sure that there is nothing that has a foundation in that report. So that it is not nervous; I hope it is just attempting to do the job.

~~Mr. Shibley: All right. Leaving it at~~

H-971 to follow

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~~(Mr. Fleck)~~

~~Mr. Shibley: All right. Leaving it at that for the moment, having regard for the evidence I have read to you, wherein Mr. Manthorpe repeated, I think at least three times, that Smith told him someone close to the Premier's office had called him; and bearing in mind that you yourself say Mr. Cronyn would fit the bill and Mr. Cronyn has been mentioned as one person who called Smith some time in this period, do you agree with me that the sequence of events was that Mr. Cronyn had already had his conversation with you, whether it be November 4, or November 7, or whenever, as at the time Mr. Cronyn called Mr. Smith?~~

Mr. Fleck: If that is the question, I believe I can say yes, but I do want to qualify it, because there might be the inference that the person that Manthorpe is referring to is Mr. Cronyn and that may or may not be the case, because I believe there is a whole lot of evidence that indicates that Smith called Manthorpe before Cronyn called Smith.

I know there is also evidence that Cronyn called Smith before Smith called Manthorpe, so I don't know who the man is that Manthorpe is talking about, but I do know that, as long as the call was after November 7th, it has to be after I have talked with Mr. Cronyn, ~~and~~ I would also agree that I have said previously that I think Mr. Cronyn <sup>is someone that</sup> would qualify as close <sup>not</sup> to the cabinet and/high in the Progressive Conservative Party.

Mr. Shibley: Just going the next step, let's presume for the moment - and it is only a presumption - that Mr. Manthorpe is accurate in saying that he received Smith's call during the week of November 27th. Is the chronology as follows, and if I am wrong please correct me, Mr. Fleck?

If Mr. Cronyn met with the Premier in the month of



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(Mr. Shibley)

November, as he says, it would necessarily have been on November 1 before the Premier left on his trip. Is that correct?

Mr. Fleck: Correct. Although I think it unlikely that they met on November 1st, but I agree.

Mr. Bullbrook: I don't follow that; I want that clarified. I am sorry, I don't want to interrupt you but I have got to have this or I am no good. Okay?

I thought I had established in my mind that Cronyn and Davis had to meet on <sup>November</sup> the 1st. *Will you help me there?*

Mr. Shibley: Not necessarily, because the witness is going to check with greater care ~~and~~ I have said to him it is vitally important that he ascertain from the Premier's diary and any other source as to whether that meeting took ~~pal~~ place and, if so, the precise date, but Mr. Cronyn has testified that he met Premier Davis and that he met him in November. I can refer you to the evidence, <sup>although</sup> it isn't necessary, ~~but~~ it is significant, perhaps, that there was a recess, after which Mr. Cronyn returned and said with greater precision "I have considered it over the recess and I tell you now it was definitely in November".

Maybe I am overstating it but it is very clear from the transcript that he has given it consideration at at the time he pinpoints November.

He also testified that his meeting with the Premier preceded his discussions with Mr. Fleck, so the effect of moving back Mr. Fleck's discussion with Mr. Cronyn all the way back from early December, which Mr. Cronyn testified to, to November 4th, which is now the situation, November 4th or earlier, we have also forced back, or telescoped, the period of time within which Mr. Cronyn met with the Premier to ~~the last of~~ November, for the additional circumstance that the Premier was not in the

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(Mr. Shibley)

country on the 2nd, 3rd, or 4th of November. Is that correct, Mr. Fleck?

Mr. Fleck: That is correct.

Mr. Bullbrook: I don't want to interrupt you but I have to have this in my mind, Mr. Chairman, bear with me.

The chronology that you have just given me is the absolute foundation for my understanding on the evidence with the possible exception of this, That the Day-timer isn't the substantive evidence that I regard it to be, because we still have Cronyn's ~~evidence that is dated in November, but~~  
~~... ..~~

972  
Tape H - 972 follows

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Mr. Bullbrook

~~evidence that I regard it to be because we still have Cronyn's~~  
evidence that it was <sup>later</sup> ~~later~~ in November, But weighing those two,  
one is one of recollection and the other one is ~~a~~ something,  
in fact, that Mr. Fleck is able to support his ~~w~~ recollection, upon.  
How do we get it possibly that the Davis-Cronyn discussion  
couldn't have been - could have been on any other date ~~the~~ <sup>than</sup>  
November? <sup>first?</sup>

Mr. Shibley: Perhaps Mr. Bullbrook ~~was~~

Mr. Deane: <sup>It could have been October</sup> ~~It could have been October~~

Mr. Bullbrook: No, ~~in~~ his evidence ~~was~~ <sup>was that it was in</sup> November.

Mr. Shibley: Mr. Bullbrook, please, bear with me  
for a moment. This is <sup>my</sup> ~~a~~ very type of conclusion about which  
Mr. Genest was concerned earlier.

Mr. Bullbrook: Well, no ~~am~~

Mr. Shibley: And I don't think you should jump to  
that conclusion until the whole of the evidence is in. At the  
moment, and without benefit of Mr. Fleck's further investigation  
by way of the diary of the Premier and any other source material,  
based on Mr. Cronyn's evidence that he met the Premier in  
November and the fact that the Premier was out of the country  
from 5.25 on November 1 and based upon the fact that the meeting  
with the Premier now <sup>had</sup> ~~was~~ to take place prior to November 4,  
again on Cronyn's testimony, Mr. Bullbrook, the conclusion is  
quite correct if that evidence remains intact, but it's subject  
to the ~~the~~ further investigation by this witness as to when  
that meeting took place. Now if the meeting took place prior  
to October 1 - I am sorry, November 1 - then, of course, Cronyn's  
memory in respect of the month in which he met with the Premier  
is in correct. But, Mr. Bullbrook, I urge you not to attempt to  
influence this witness's thinking <sup>in</sup> ~~that~~ respect.

Mr. Bullbrook: I'm not <sup>doing</sup> ~~doing~~ that.

Mr. Shibley: I just want to leave him with a free  
mind, ~~mind~~ <sup>that</sup> to make that investigation such ~~as~~ when he comes back ~~the~~

Mr. Bullbrook: We've got to clarify that. We have  
got to clarify that. I am not at all. I am sitting back,

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(Mr. Bullbrook)

listening to the evidence and then the spark of ~~xxx~~ refusal was in my mind when there was some equivocation ~~and that~~ two things ~~that~~ we have to make clear, Mr. Shibley, between you and myself. That wasn't, of course, intended to <sup>affect</sup> ~~effect~~ the witness's evidence. It was just, all of a sudden, I had come to a conclusion. I made notes on these very things that you have now enlarged upon.

Mr. W. Hodgson:

*I hope that's not*  
~~inadmissible~~

Mr. Bullbrook: No, it's not.

Mr. Shibley: I would ~~say~~ the reason I ask you to be careful about what you put to the witness now, or what you put on the record ~~see~~

Mr. Bullbrook: All right. ~~That's~~ fine.

Mr. Shibley: I have a reason why I don't want you to pursue it.

Mr. Bullbrook: Okay. Fine. I am not ~~see~~. I didn't intend to pursue it. My interjection was one of question -- ~~Bad~~ I ~~had~~ missed something?

Mr. Shibley: No. No.

Mr. Bullbrook: Obviously I haven't.

Mr. Shibley: At the moment, the best evidence we have is that the meeting took place on November 1 but that's subject to change according as Mr. Fleck ascertains that it was at an earlier date. It might have been, as someone said, in the preceding month.

Mr. Fleck: I wonder, is someone making a note? They did yesterday, but I notice there is nobody up there today; ~~They~~ <sup>lots</sup> gave me a little note at the end. I've got ~~lots~~ of paper but nothing to write on.

Mr. Chairman: In the absence of Mr. Moore, I will try to make a few notes.

Mr. Fleck: <sup>Just so</sup> I know what it is. I am sure I can go back and read it.



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Mr. Shibley: Now I want to take the committee and yourself <sup>through</sup> to the ~~same~~ chronology as the evidence now appears to present. If Mr. Cronyn and the Premier met in November, it was necessarily on November 1? The second step was that Mr. Cronyn met with you on or before November 4, 1972, and in <sup>(discussed)</sup> the course of that meeting ~~discussed~~ <sup>you</sup> with the complaints of Ellis-Don? Is that correct?

Mr. Fleck: Presuming that he's correct in that he went away on the <sup>5th</sup> ~~11th~~? I haven't got that pinned down, but approximately, yes.

Mr. Shibley: I realize that. Presuming that he, on his further testimony, that it couldn't have been the <sup>5th</sup> ~~5th~~ <sup>6th</sup> ~~6th~~ <sup>7th</sup> ~~7th~~ <sup>8th</sup> ~~8th~~ <sup>9th</sup> ~~9th~~ or <sup>10th</sup> ~~10th~~ or <sup>11th</sup> ~~11th~~ day.

Mr. Fleck: <sup>That's right; then it's got to be</sup> ... ~~inaudible~~ ...

Mr. Shibley: <sup>and</sup> and on your testimony that because of ~~other~~ other events noted in your Day-Timer, it had to be prior to the <sup>7th</sup> ~~10th~~ ~~seventh~~.

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11:15-11:20 am  
PLG

(Mr. Shibley)

~~the fact and on four occasions that because of the other events noted in your last letter it would have to be prior to the 7th, the earliest possible date for the meeting which is recorded there would be November 4.~~

Mr. Fleck: The latest possible date.

Mr. Shibley: I am sorry, the latest, yes. Earliest in the month.

Mr. Fleck: Latest in the month.

Mr. Shibley: Now then, the third thing that appears to have happened, again predicated on what the committee concludes as to the timing of the Smith-Manthorpe telephone call, is that during the week of November 27, Smith called -- I am sorry ~~any~~

Mr. Fleck: Smith called Manthorpe.

Mr. Shibley: Right. The third situation is that Cronyn called Smith because Cronyn fits the description of a person close to the Cabinet, or I think the description is "Close to the Premier's office", and of course, if Smith said that to Manthorpe, and I hope everybody noticed that I am saying "if" Smith said that to Manthorpe, and Manthorpe has testified three times around that he said it, then necessarily, Mr. Cronyn had called Smith prior to Mr. Smith's calling Mr. Manthorpe ~~and so~~.

Mr. Fleck: Unless Mr. Smith has got some other friend close to the Premier's office or Cabinet.

Mr. Shibley: Of which there is no other evidence. The only evidence is that it is Mr. Cronyn who fits the description of somebody who called Mr. Smith. We have got that, and we are not yet sure of the precise time, but it would necessarily be some time between November 4 and the week of November 27.

Mr. Fleck: I am sorry, help me on that one. Oh, that's if Manthorpe is correct that it is the first of the week of the 27th, isn't it?

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Mr. Shibley: Yes. Now then, I might tell you that in the newspaper account Smith is quoted as saying that he received a call a few weeks prior -- better get the exact wording...

Mr. Fleck: That's right, and he wants to make it January, if I remember.

Mr. Shibley: "A few weeks ago." Now if that "few ~~was~~ weeks ago" was a transposition of the period of time which elapsed between the week of the 27th and the prior telephone call to Smith from Cronyn, that would place that telephone call as one which was made during the week of November 6 or November 13.

Mr. Fleck: I am sorry. I don't catch the bit about the transposition. ~~I mean if it was three months, then~~

Mr. R. G. Hodgson: Mr. Shibley, the word "few" is wrong.

Mr. Walker: Well no, that isn't

Mr. R. G. Hodgson: It's "several"

Mr. Shibley: Well, several weeks. Thank you.

Mr. Walker: Isn't that <sup>the</sup> April 30th article?

Mr. Renwick: Isn't that the April 30th article?

Mr. Shibley: I realize that, but remember, ~~that~~

whoever prepared that report had the benefit of Mr. Manthorpe's notes and what I want to know at the moment is, taking the article in the terms of the material it presents, Mr. Smith is quoted as having said;

"Several weeks ago I received ~~it~~."


~~and~~ I am only speculating at the moment, but the "several weeks ago" now takes on -- becomes a matter for thought. Mr. Genest has made me a little gunshy. When one considers that if Mr. Cronyn, ~~having had~~ <sup>his</sup> discussion with you, called Mr. Smith shortly thereafter, that would be several weeks before the week of November 27.

Mr. Fleck: If and if and if...

Mr. Shibley: Yes.

Mr. Fleck:...<sup>it</sup>When; I really don't quite see yet the "Several weeks ago", as I understood the article, was referring to the call from Cronyn to Smith. Several weeks ago from ~~the~~ the time he was talking to McAuliffe.

Mr. Shibley: You are quite right. There is a lot of conjecture in ~~it~~<sup>it</sup> but one thing we do know is this; that from the content of the information provided by Smith to Manthorpe, Smith had necessarily received a famous phone call prior to that telephone conversation.



Tape H ~~973~~ 974 follows



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(Mr. Shibley)

~~price to that telephone conversation.~~ Do you agree with that?

Mr. Fleck: I'm sorry. Run over that again. I was still back with McAuliffe.

Mr. Shibley: The content of the information imparted by Smith to Manthorpe. Smith had necessarily already received his famous phone call.

Mr. Fleck: My surmise, or speculation, based on what I've read, is that if Manthorpe is accurate in what he said, and if Smith is accurate in ~~the~~ the rest of what he said, then he must have called Manthorpe after Cronyn ~~called~~ called him. But then he's got to be inaccurate in his statement that Cronyn called him after Smith called Manthorpe. So, I'm back in circles again.

Mr. Shibley: That's the evidence he gave on his last attendance. I realize that. He gave that evidence ~~when he was~~ recalled, I think, for the second or third time.

~~He then~~ The other circumstance that I want to cover with you is that Mr. Cronyn was incorrect respecting the statement of the timing of his discussion with you. And he was incorrect twice around, notwithstanding an intervening discussion with you. He did give us this much the second time, he said he might be wrong, but in any event, his best recollection remained that the discussion was in early December or in the last part of November. But his statement, in any event, was incorrect. Is that right?

Mr. Fleck: The statement that it was in the last week of November or early December is, in my view, incorrect, yes.

Mr. Shibley: That's right. And whereas Mr. Cronyn gave, as his reason, I think the evidence was "What prompted me to speak to Mr. Fleck about the Ellis-Don complaints were Mr. Nixon's questions in the House," ~~when~~ when I attempted to elicit from him an explanation as to what prompted his comments to you, in a meeting which we now recognize must have been in the first four days of November, his counsel prevented an answer, by saying, I think

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(Mr. Shibley)

think, it was "hypothetical". Can you assist this committee as to what prompted Mr. Cronyn to make his comments to you during the meeting on or before November 4, respecting Ellis-Don?

Mr. Fleck: Well, I did go in yesterday, I think, into my recollection of those circumstances, but I can touch on it again. My recollection of the circumstances <sup>is</sup> ~~is~~ that this was brought up. I don't know why, there may be other reasons why it was brought up. But my recollection at the time is that it was brought up as an example of what, in Mr. Cronyn's opinion, was a sloppy procedure that related to the Hydro negotiations, I guess, related to their ~~ht~~ building. And as I've mentioned, it was in the context of our discussing the use of the proposal method of carrying out projects versus the tender method of carrying out projects. And it was, as I remember it, given as an example related to that discussion. Now, also I would say that, obviously, it had sufficient significance to me in my later request for the information <sup>filed</sup> ~~to~~ the rumour that I'd had that it was another of many bits of information that triggered an action on my part.

Mr. Shibley: All right. Now, I had asked you yesterday about particulars of the meeting between the Premier and Mr. Cronyn; and you've now, again, undertaken to search out your -

Mr. Fleck: Yes. What I have done ~~the~~ the specific question was that first week, and I haven't ruled out the first. My guess would be ~~no~~ no, I won't guess.

Mr. Shibley: All right. Now, Mr. Fleck, on November ~~ix~~ 9, 1972, Mr. Gathercole had a meeting with Premier Davis.

Mr. Fleck: That is correct.

Mr. Shibley: At 10 a.m.

Mr. Fleck: 10 a.m. to 10:30, yes.

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July 5/73  
11:20 - 11:25 am.  
M.S.

Mr. Shibley: I might ~~remind the members~~ remind the members of the committee that it was also November 9, which was the day upon which the Hydro Commission met and was receiving ~~by~~

Mr. Fleck: November 8, wasn't it?

Mr. ~~Genest~~ Genest: November 8.

Mr. Shibley: I'm sorry. November 8. I'm sorry. I'm wrong in that respect. On November 9 he met with the Premier. Was that by pre-arrangement?

Mr. Fleck: I believe, and I'd have to be careful, as I ~~think that~~.



Tape H 975 follows

July 5, 1973  
11.25 - 11.30 a.m.  
M.R.

(Mr. Fleck)

~~\_\_\_\_\_~~  
think the sheet is set up on November 7th, so there would be an indication that it was not determined on the 9th to have it, that it was determined at least by the 7th.

I have a date received November 7th and then the ~~meeting~~ <sup>the</sup> confirmed appointment for November 9th at 10.00 to 10.30.

Mr. Shibley: So, can we take it that there was a communication between someone in the Premier's office and Mr. Gathercole on November 7th, which led to the November 9th meeting with the Premier?

Mr. Fleck: Correct.

Mr. Shibley: And who was it ~~that~~ <sup>who</sup> was in communication with Mr. Gathercole to set up that appointment?

Mr. Fleck: Well, there I would have to check. In all likelihood, at that point in time, - let's see, where we are now - it would be either Mr. Brian Armstrong or Mr. Bruce Fountain, who were the two people - it's Mr. Bruce Fountain now; at that time it was Mr. Armstrong but Mr. Fountain was working for him at that time. He may have made the contact.

Mr. Shibley: Did you issue the instructions to arrange that meeting?

Mr. Fleck: I don't know.

Mr. Genest: Mr. Shibley?

Mr. Shibley: Yes?

Mr. Genest: There is an assumption in your question which may not be warranted, that Mr. Gathercole would speak personally to the person who was arranging the appointment.

Mr. Shibley: I'm sorry.

Mr. Genest: I am instructed that generally the rule is that his executive assistant or his secretary ~~has~~ <sup>make</sup> contact with reference to those things.



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M.R.

Mr. Shibley: Well, Mr. Fleck, can you assist us as to who initiated the arrangements for the appointment? Was it your office or Hydro's offices?

Mr. Fleck: No. We would have to check. The way that the law is set up it is an appointment request, and usually with this type of a form it is an indication that there has been a request.

Mr. Shibley: Yes. By your office?

Mr. Fleck: No, <sup>not</sup> ~~by~~ by the other party.

Mr. Shibley: I see.

Mr. Fleck: For an appointment with the Premier.

This is set up and then we ~~are~~ decide when it's to be.

Mr. Shibley: That's another thing I'd like you to check into and I'd ask Hydro to do the same.

In any event, on the 7th of November, arrangements are made for Mr. Gathercole to meet with the Premier on the 9th of November, is <sup>that</sup> ~~and~~ correct?

Mr. Fleck: That is correct.

Mr. Shibley: I want to know also, I want you to check as to what was said between whomsoever were the parties to the November 7th conversation.

Mr. Genest: Mr. Shibley, is that a serious request?

Mr. Shibley: Yes, it is.

Mr. Genest: Well, how can I - I'm flabbergasted.

Mr. Chairman: Well, I am too, Mr. Shibley. I'm a little concerned where we are going here. It seems to me that you are asking here two secretaries ~~what~~ or executive assistants, to check their memory, which may be very material, but if it does become material, I'm wondering how reliable it is.

Mr. Shibley: If they have no memory, Mr. Chairman, I'll accept that answer from both parties. I just at the ~~same~~ moment am very concerned about this period of time. Obviously, counsel for Hydro has made it a matter of concern to himself and others and I think as <sup>as possible</sup> an examination into this period of time is warranted.

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M.R.

Mr. Genest: Well, Mr. Shibley, since I have been dragged into this as a matter of concern, I must state to the committee that I ~~cannot~~

~~fail to follow the significance~~  
of this whole line of inquiry.

Mr. Shibley: Mr. Genest, please don't invite me to explain it because I'd rather the evidence speak for itself. Now twice round, I have been asked by a number of people to explain the direction my questions were taking and as soon as I made the explanation all—

An Hon. Member: All hell broke loose.

Mr. Shibley: ~~so~~ all hell broke loose, thank you. ~~Just~~ If you just bear with me, I assure you that I am not wasting anybody's time. I am on relevant ground.

Mr. Chairman: All right. I'm just putting myself in ~~the~~<sup>is</sup> position ~~as~~ that ~~my~~<sup>the</sup> secretary was asked what she said when she arranged an appointment for me sometime three months ago, ~~it~~<sup>it</sup> would be a little difficult for her to recall and I wouldn't want too much to hang on what she ~~said~~<sup>said</sup> she might recall.

Mr. Walker: Yes, Mr. Shibley couldn't even remember which day we had started work here this week. He had to ask you, Mr. Chairman.

W. Mr. Newman: ~~There~~<sup>We suffer</sup> some lapses now and then, *don't we?*

Mr. Shibley: I'm the first to admit to that.

Mr. Fleck: Well, I know the subject of the conversation was again the Task Force Hydro report.

There is an appointment directly behind that appointment at 10.30 with a Mr. Frame, who was a past president of the Municipal Electrical Association and I know that these are subjects that are under discussion.

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11.30-11.35 am  
V.H.

~~Mr. Fleck~~

~~of the Municipal Association and I know that these~~

Mr. Chairman: Well, I have made a note that I will attempt to get this information and Mr. Genest, if you will attempt to get that as well?

Mr. Shibley: In any event, there was a meeting on November 9 between Premier Davis and Mr. Gathercole and I remind you, Mr. Fleck, that on November 9, your Day-Timer also indicates that that was the day on which you requested a letter from Mr. Gathercole which resulted in the production of the November 15 narrative.

Mr. Fleck: Again, if I may, I haven't drawn the conclusion that it resulted in the production of it. I presume it's one of the reasons I <sup>got</sup> a copy <sup>(there is)</sup> but <sup>(a)</sup> in my Day-Timer note, as I indicated yesterday, "Hydro building letter - G.G." and, therefore, I would think that that would be when I did request it. ~~And~~ It now seems to me that I may even have ~~xxx~~ requested it as Mr. Gathercole was going in or going out because I don't have, as I indicated before, a specific recollection of it. I am using this as my aid.

Mr. Shibley: Yes. Well, Mr. Fleck, I think this is important and you've run through that very quickly. You ~~would~~ say that you may have made a personal request, rather than a telephone request of Mr. Gathercole, on November 9 on the same occasion on which he was either about to attend or was leaving the Premier on that day?

Mr. Fleck: That's possible.

Mr. Shibley: Is that correct?

Mr. Fleck: Yes.

Mr. Shibley: You were in attendance with the Premier and Mr. Gathercole during the course of that meeting?

Mr. Fleck: Yes.

Mr. Shibley: Was the Hydro head office building discussed in the -- at that meeting?

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V.H.

Mr. Fleck: No.

Mr. Shibley: Was your request for the narrative made while Premier Davis was present?

Mr. Fleck: I would think not. I cannot be precise about that but I would think that if I had something like this in mind, I knew he was coming in, ~~that~~ it might well be, because this would often happen, that I might make a side request as he is going in or as he's going out, when I would be seeing the person in question. I can't imagine that I would have taken up part of the time of the meeting itself, which was on another subject, for a request of this sort. But I can't be positive.

Mr. Shibley: Mr. Fleck, I want to produce to you exhibit 114, dated November 16, 1972. This is the letter from Mr. Gathercole to Mr. Davis with a copy to yourself.

Mr. Fleck: Yes.

Mr. Shibley: Now I put it to you that, notwithstanding that the request emanated from you, the letter in response is directed to the Premier himself with only a copy to you.

Mr. Fleck: That's correct.

Mr. Shibley: Is that right?

Mr. Fleck: Yes.

Mr. Shibley: Now, Mr. Fleck, is this not inconsistent, with no prior arrangement, that the narrative should be sent to the Premier himself as opposed to ~~merely~~ <sup>merely</sup> I shouldn't say ~~merely~~ <sup>merely</sup> as opposed to sending it to you?

Mr. Fleck: It is not, to me, inconsistent, no.

Mr. Shibley: You think that Mr. Gathercole, on his own initiative, would send the original ~~xxx~~ letter to the Premier and only a copy to you, notwithstanding that it was you and you alone who requested the narrative?

Mr. Fleck: No. It wouldn't have been necessary because if he had sent it to me, that would be fine, ~~that~~ <sup>that</sup> would have met the request, but if he sent it to the Premier, that wouldn't bother me at all.



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V.H.

Mr. Shibley: You realize, Mr. Fleck, that earlier communications with your office, as for example the press release, <sup>were</sup> ~~was~~ just simply sent to you?

Mr. Fleck: But that's the only previous example. And the earlier letter, of course ~~went from Mr. Gathercole~~ <sup>to</sup>

Mr. Shibley: Anything intended ~~to~~

Mr. Fleck: There <sup>are</sup> ~~was~~ only two previous instances that I know of; one went to me and one went to the Premier. This time he did it to both.

Mr. Shibley: Wouldn't the ordinary course of mailing material, which was intended for his attention ultimately but for a prior review by you, be simply to send it ~~at~~ to you? Then through you, have it communicated to the Premier?

Mr. Fleck: The ~~a~~ variety of ways in which material is sent to the Premier's office surprises even me sometimes.

Mr. Shibley: So your testimony, Mr. Fleck, in this respect is that nothing was said to Mr. Gathercole at the meeting of November

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M.F.

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(Mr. Shibley)

~~nothing was said to Mr. Gathercole at the meeting of November~~  
9th when he met with the Premier and when you, before or  
after, made the request for the narrative which would indicate  
to him that the narrative should be sent to the Premier?

Mr. Fleck: I think that would be accurate, yes.

Mr. Shibley: You also appreciate that copies of that  
narrative were subsequently, but only subsequently, sent to the  
ministers responsible for reporting to the House?

Mr. Fleck: You are telling me so, therefore, it ~~must~~  
must be so.

Mr. Chairman: I don't know whether you can take that  
for a fact or not, Mr. Fleck.

Mr. Allan: Don't ask me.

Mr. Shibley: I will get those references for you.

Mr. Genest: ~~Exhibit~~ Exhibit 113, Mr. Shibley, is a  
letter from Mr. Candy to Mr. Gathercole, dated November 16th,  
which attaches a copy of the report of November 15th, and  
indicates "which I have submitted to Mr. James Auld" and as  
you are aware, as I think I made you aware, similar letters were  
~~sent~~ <sup>received</sup> by Mr. Candy ~~from~~ <sup>from</sup> a number of the other senior people  
of Hydro - Mr. Sissons, Mr. Gordon and others.

Mr. Shibley: I may be thinking of the answers to  
questions that went out later.

Mr. Genest: This seems to indicate that that went  
to Mr. Auld at exactly the same time as it went to the Premier.

Mr. Shibley: Have you got the covering letters for  
the remittances to Mr. Auld?

Mr. Genest: We will have to search out records.

Mr. Shibley: I would appreciate that, thank you.  
Now then, Mr. Fleck, again looking at exhibit 114 ~~-----~~

Mr. Genest: I have the information.

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Mr. Shibley: Yes, please?

Mr. Genest: That was handed personally to Mr. Auld by Mr. Toth, a member of the Hydro staff, who at the same time arranged for the appointment on November 20th.

Mr. Shibley: What day did he give it?

Mr. Genest: I am told it was on the 16th.

Mr. Shibley: On the 16th?

Mr. Fleck: Mr. Shibley, could I add a comment? As I mentioned this morning in the telephone call - and I do not have a recollection of this, but I am now trying to see what might have happened at that time - it is quite conceivable that I would have spoken to Mr. Gathercole as he was going in or going out, as I <sup>have</sup> mentioned, <sup>and</sup> requested a narrative; it is also quite conceivable, if he was aware that this was being prepared, that he would say "We are working on something now and we will have it over next week".

You know, it is possible, It wasn't something that sort of sticks out in my mind or had any special significance at that time, ~~and~~ that might explain, then why it comes in the form that it comes.

You see the problem I have, I guess, is trying to determine what might be in somebody else's mind when they send something to me.

Mr. Shibley: Mr. Fleck, I take it that the environment in which this narrative was requested was in the atmosphere of the high office of the Premier, with the chief executive officer requesting it of Mr. Gathercole, and him subsequently remitting it directly to the Premier himself.

Mr. Fleck: Yes, the high office - I am not always treated with that respect. There are those ~~that~~ don't think it is that high, but in any event ~~-----~~

Mr. Shibley: Are you telling us that, notwithstanding those circumstances that you have given to this committee,

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(Mr. Shibley)

respecting the request for the memorandum, that Mr.  
Gathercole should be excused in terms of a lapse of memory,  
or, however, for his failure to give a correct statement -----

Tape H - 978 follows



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11:40-11:45 a.m.  
PLG

(Mr. Shibley)

~~a lot of money in the way of the fact that~~  
~~document~~ as to how that document was elicited at that time?

Mr. Genest: I don't accept that at all. I want to take strong exception to the form of that question.

Mr. Chairman: I don't know that's -- surely it is up to the committee to decide who should or should not be excused on the evidence that is here. I may not have been paying enough attention to it, Mr. Shibley.

Mr. Shibley: Mr. Chairman, all I want to do is get ~~and~~ if this witness is saying that things were such that Mr. Gathercole could easily have forgotten the correct circumstances, at least, which brought about his remittance to the Premier of that document, then we will have the benefit of this witness's testimony.

Mr. Fleck: Well, I could say ~~that~~ that if I were in similar circumstances I would think it would be something that could happen.

Mr. Shibley: If you were in Mr. Gathercole's position, vis-a-vis yourself and the Premier ~~and~~

Mr. Fleck: And if I thought that it was very ~~not~~ natural and was perhaps happening in any event, it might not hit my consciousness as hard as if it was something that I was specifically doing. ~~At~~ At least, that would be my case. When someone asks me for something and I know that it is already being done, ~~I don't~~ it doesn't concern me as much, because it isn't going to require something definite on my part; whereas, if it is something that I have to take a specific <sup>e</sup>ction, it is more likely ~~it~~ it doesn't mean I always do remember, but it is ~~not~~ more likely that I will.

Mr. Bullbrook: In view of that response, may I take the position that the question was a very fair one, because, if ~~anything~~ anything, it has certainly got to ~~substantiate~~ substantiate what I anticipate is going to be ~~the~~ the response from Mr.

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PLG

(Mr. Bullbrook)

Gathercole.

Mr. Genest: There is no doubt about that. Let there be no doubt about that. Mr. Gathercole, <sup>and</sup> I have discussed it with him, has no recollection whatsoever of a call or ~~the~~ a request by Mr. Fleck that this be prepared.

Mr. Bullbrook: I am pointing out ~~that~~ really, what is concerning us, and I understand this, that in some of our counsel's line of questioning it is a two-edged sword. We have got to recognize it is a two-edged sword. The response is very beneficial I would think to the edge of Mr. Gathercole. The witness is saying in the context of all these circumstances, in the context that the work that Mr. Fleck wanted to have done, was already being done, <sup>and</sup> "I just plain forgot about it."

Mr. Chairman: Right. Maybe that is why it was an unfair question.

Mr. Genest: I object to the ~~question~~ question, not the answer.

Mr. Chairman: I said, ~~Maybe that is why it is an unfair question.~~ He says, "He objects to ~~the~~ the question, not the answer". That's the other edge.

But I do think the conclusions are up to this committee to arrive at on the evidence rather than the ~~witness~~ witnesses.

Mr. Renwick: But Mr. Chairman, we are dealing with a witness who gave evidence yesterday and again today and if Mr. Shibley <sup>rather than me</sup>, raised the points, would look at pages 948-1 and 948-2 of yesterday, July 4.

~~Mr. Bullbrook~~ Mr. Bullbrook: Is that the morning or afternoon session?

Mr. Renwick: That is the afternoon session.

Mr. Fleck: What is the page?

Mr. Renwick: 948-1 and 948-2. My particular point is that it was at that point that Mr. Fleck indicated that ~~he~~ he

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PLG

didn't necessarily give reasons other than that he wanted it, and emphasized ~~that~~<sup>second</sup>, at ~~least~~ least it came through to me that it was emphasizing <sup>that</sup> that when Mr. Fleck, as chief executive officer to the Premier asks for something, it is pretty unmistakably clear to the recipient that it is to be produced. ~~and~~ Secondly, I ~~am~~ would appreciate it if Mr. Shibley would clear up with Mr. Fleck the circumstances in which what was a telephone call yesterday may very well have been simply a casual remark made on the way in or way out of ~~such a meeting~~ a meeting with the Premier.

Mr. Fleck: Not always.

"No, I wouldn't necessarily give him the reasons. No, If I am asking for something I am not always -- the reason is I want it," and It is not only the printed word here but the manner in which Mr. Fleck gave his evidence yesterday which led me to conclude that where Mr. Fleck asks on behalf of the Premier, the person receiving the message knows exactly what is being requested of him. That is the way it came through to me.

Mr. Chairman: His authority is for being demanding  
derives from his position.

Tape H 979 follows

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11.45 to 11.50 am  
fvk

(Mr. Renwick)

~~what is being requested by the witness. I say it came through  
the channels. The possibility for being demanding arises  
from the circumstances~~

Mr. Renwick: Of course.

Mr. Fleck: Could I comment since I happen to be here?

I'm one of the witnesses ~~that~~ is here.

The point I was trying to make yesterday, and I would make the same point today, is that I'm not always specifying reasons, ~~in the same way~~ Mr. Shibley is not always specifying reasons for wanting a particular item when I ask for it. And that is true. ~~Somebody~~ I'm sure, quite obviously, part of ~~the~~ that would come from the office that I'm in, ~~and~~ <sup>often</sup>, at lower levels in government, I'm sure if there was a request made from someone maybe they would give reasons. Sometimes I do but it's not necessary.

Mr. Renwick: ~~Somebody~~ It had two parts to it. One, <sup>has</sup> not necessarily do you give reasons, which is quite understandable, but the other part of it, in the manner in which you expressed it, ~~was~~ <sup>"I</sup> was that <sup>when I ask, I expect to receive."</sup> <sup>true.</sup>

Mr. Fleck: Oh yes. That's ~~quite~~ <sup>true.</sup> I don't always have my expectations realized but I certainly do expect ~~them~~ it.

Mr. Renwick: Most times.

Mr. Shibley: I think what Mr. Renwick is directing your mind to, however, Mr. Fleck, is the circumstance that the response to your request was not the sending of the original letter to you but to the Premier himself with a copy to you. It's ~~not~~ clear that you were involved because a copy was sent to you but your earlier testimony, we'll read it to you if you wish, doesn't give any hint as to any circumstance in the exchange between yourself and Mr. Gathercole which would cause him to send the original to the Premier.

Mr. Fleck: No, I think that is quite right. At least there is none that I would recall. I might add that maybe I'm not too worried about the protocol of things as long as I have the information that I require. I don't make any particular point or issue of the fact that it's a copy I'm receiving and not ~~by~~ the



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fvk

(Mr. Fleck)

original as long as I have the information. That's all I'm interested in.

Mr. Shibley: Mr. Fleck, I'm not ~~sure~~ worried about protocol either and I must ask you the direct question. Was there anything said, either by you or anyone else, as to Mr. Gathercole which would have caused him to send the original document to the Premier himself?

Mr. Fleck: No, nothing that I can recall, and I can't imagine why. No.

Mr. Shibley: The other area that Mr. Renwick asked that I direct your mind to is the circumstance of your making the request. Could you be more precise in that regard? The appointment was for 10:00 ~~o'clock~~ in the ~~evening~~ morning?

Mr. Fleck: Yes.

Mr. Shibley: Was the Premier in his office at that time?

Mr. Fleck: Yes.

Mr. Shibley: Were you in your office at the time or were you with the Premier?

Mr. Fleck: Between 10 and 10:30, during the meeting I'd be with the Premier. I'd be in my office before going into the meeting with the Premier, I would imagine.

Mr. Shibley: No, no. I'm trying to direct your mind to the period of time before and after the meeting within ~~which~~ <sup>- periods</sup> one of which was the time you ~~was~~ made the request. Are you with me?

Mr. Fleck: Yes.

Mr. Shibley: Now, let's start at the time ~~was~~ before the meeting.

Mr. Fleck: I have an indication here that I had a meeting in my office at 8:30 and I therefore must have ~~been~~ been in my office prior to the meeting at 10.

Mr. Shibley: <sup>All right</sup> ~~Then~~ Then Mr. Gathercole arrived and he would be in the reception area between your office and that of the Premier?

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fvk

Mr. Fleck: That is correct.

Mr. Shibley: It's a common ~~area~~ reception area, is that right?

Mr. Fleck: There also is a small area where my secretary is ~~and~~ sometimes people ~~who~~ are just coming to see me they would be coming in there. They would not be going into the reception area in the Premier's office.

Mr. Shibley: I see. I didn't get beyond your receptionist.

Let's take it from there. Mr. Gathercole would arrive at whose reception area?

Mr. Fleck: The Premier's, in all ~~likelihood~~ likelihood.

Mr. Shibley: What happened next?

Mr. Fleck: All I can talk about is what would normally happen. I really can't recall the specific event but I can tell you <sup>that</sup> normally, there is a long reception hall and a receptionist in there ~~and~~ <sup>at the time</sup>, when the Premier is ready to see whoever is in there, ~~and~~ in some cases I would come out, ~~and~~ I would ~~either~~ come from my office to get the person in the reception area ~~&~~ and go into the Premier's office. It's conceivable I would be in the Premier's office first before going to the reception area to get the person.

~~Mr. Shibley: Mr. Fleck, are you really very interested~~

~~in what~~

(Tape H-980 follows)

July 5, 1973  
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V.H.

~~(Mr. Fleck)~~

~~conceivable I would be in the Premier's office first, before  
going to the reception area to get the person~~

Mr. Shibley: Mr. Fleck, we really are only interested in what happened on this occasion.

Mr. Fleck: I don't know.

Mr. Shibley: You can't help us?

Mr. Fleck: I can't help in separating out whether I would be in the Premier's office when he's there, whether I am in my office, or whether I'm in -- sometimes, I would be in with the Premier and Bruce Fountain would go and bring the person in. So I can't help you on that.

Mr. Shibley: Did you have the opportunity then to have any discussion with Mr. Gathercole or was the appointment imminent?

Mr. Fleck: ~~Oh~~ I could readily have an opportunity but I have no recollection. I could readily have an opportunity in going to get him at the reception area and take him in. ~~One~~ more likely after the meeting, as he's coming out, I might say, "Would you just slip down" because my office is just practically next door. "Please slip down for a moment". Or I might just say it walking out, "Would you mind doing such-and-such". I do not have a recollection.

Mr. Shibley: You must have had some conversation with Mr. Gathercole indicating not only what it was that you wanted but the reason for wanting it in ~~order~~ <sup>order</sup> that he could make up the document, or have made up for you the document <sup>in question?</sup>

Mr. Fleck: You see, that's ~~what~~ <sup>what led</sup> I guess ~~led to~~ the comment yesterday that Mr. Renwick was referring to; that I don't recollect giving reasons as to why I wanted it, ~~and it~~ would not normally be the practice that I would be providing reasons for a request, although I do sometimes. There is no ironclad rule.

Mr. Shibley: Would you communicate enough for him to know what content you expected in the document?

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V.H.

Mr. Fleck: Oh sure. Sure, indicating that I wanted a narrative that would set out the events surrounding the Hydro building project. Now it may be ~~and~~ I don't know, it may be that I would say that it related to how the ~~and~~ ~~proposals~~ proposals had been received and what the timing was, and things of that sort. It's possible, but the recollection that I have, and the note that I have, ~~relates~~ makes me think-- ~~as my recollection is in terms of asking for a narrative~~ report on the events surrounding the Hydro building project.

Mr. Shibley: On the occasion of this request, you have already said the Premier was not present.

Mr. Fleck: ~~My~~ My previous recollection, I might add, is that I presumed that I had done it by phone but I wasn't sure. I am just saying now, recognizing that Mr. Gathercole was in that morning, this is another possible way I might have done it. I don't have a recollection.

Mr. Shibley: If you don't have a recollection of whether you made it by phone or whether you made it by personal request at that time, I take it you really can't help us at all as to the surrounding circumstances of your making the request?

Mr. Fleck: That is correct. Other than indicating what might be so-called environmental considerations at that period in time. Allow me, then, to speculate on possibilities, that's all.

It is somewhat the same as the previous discussion; I can rule out certain possibilities.

Mr. Shibley: Is Premier Davis an environmental consideration that you can rule out?

Mr. Fleck: Yes.

Mr. Bullbrook: What does that mean? I am sorry. Does that mean that Mr. Davis was not privy to any of the circumstances surrounding the request of Mr. Gathercole?

Mr. Fleck: I am the one that is getting the request because I am wanting the information. At that stage.



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Mr. Bullbrook: No. No. He is not privy to it?

Mr. Fleck: He's not privy to it. That is correct.

Mr. Bullbrook: When does he become privy to it?

Mr. Fleck: Well, he's certainly privy to it when the questions are tabled and he's certainly privy to, I guess, ~~then~~ let's see, what else is happening around that time? That I'm not sure of.

Mr. Renwick: He would be privy to it

Mr. Shibley: Mr. Fleck, he would be privy to it when he

~~got~~ it?

Mr. Fleck: Of course.

Mr. Bullbrook: Of course. He would be privy to it then.

So we take it from your evidence. Stop me if I am -- we take it from your evidence that there never was any discussion with Premier Davis prior to the receipt by him of exhibit 114, in connection with either your request or the circumstances surrounding your request?

Mr. Fleck: That is correct.

Mr. Bullbrook: None at all?

Mr. Fleck: That is correct.

Mr. Chairman: Just give Mr. Fleck a moment to look at that note.

Mr. Renwick: Are we going to recess this morning?

Mr. Chairman: Yes. I think it might be a wise time to take a recess, Mr. Renwick.

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Mr. Chairman: I call the meeting back to order.

Mr. Moore, would you check outside to make sure that they are here. We have taken a little longer than I expected but Mr. Fleck was trying to get some of the information that we had asked him for this morning, so, Mr. Shibley, we are back to you.

Mr. Shibley: Mr. Fleck, before we deal with other matters, I am anxious to have from you whatever information you can provide this committee at this time referable to the timing of the meeting between Mr. Cronyn and Premier Davis to which he made reference.

Mr. Fleck: What I attempted to do during the 10-minute break was to focus on November 1st because that had come up in the conversation, and I was reasonably confident that Mr. Cronyn could not have met with the Premier that day. I had mentioned, because ~~there~~ <sup>was</sup> a policy and priorities board meeting in the afternoon and a Cabinet meeting in the morning and, of course, normally he would not be having appointments during that day.

I have asked the secretary to the Cabinet, Mr. Brannan, to confirm for me that there was nothing at either Cabinet or policy and priorities board that day that required or had Mr. Cronyn's attendance. So far as I know there is nothing. I do not have a report back on that.

I can say that there was no separate appointment of any sort set up that day that would include Mr. Cronyn, so that there was no appointment for Mr. Cronyn on that day.

Mr. Shibley: On November 1st?

Mr. Fleck: On November 1st. If I might also add, <sup>if it</sup> ~~that~~ would be helpful, in the immediately preceding period, the federal election took place on the 30th of October and the time had been rather fully occupied with a combination of activities during the previous few days.

Mr. Shibley: I see. Are you able at this time to assist

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(Mr. Shibley)

the committee regarding what time, or what date, the meeting between Mr. Cronyn and the Premier was held?

Mr. Fleck: No, I am not able to do that yet.

Mr. Shibley: I would ask you now to undertake during the interval prior to your next attendance to search out all records which might pinpoint that date and I would like you particularly to make an in-depth examination into the period October and November of 1972, but I don't want to exclude any other time you might consider relevant.

Mr. Fleck: The generality of.

Mr. Shibley: Yes. Now then, Mr. Fleck, exhibit 112, which is the memorandum of November 15 -----

Mr. Fleck: I am sorry, exhibit 112?

Mr. Shibley: Yes, the November 15th memorandum.

Mr. Bullbrook: I don't know whether he has it because it wasn't attached to 114, it is just -----

Mr. Shibley: While it is being delivered to you, I ~~have~~ asked you to restate the purposes you had in mind when you requested that memorandum.

Mr. Fleck: As I indicated, I believe they resulted from the information that I had received from Mr. Cronyn and also resulted from the feelings that I had, or the rumour that the press were focusing attention on the Hydro building project, and that therefore I just really wanted to get some information on the events surrounding that. That was why I asked for this, to familiarizemyself better with what it was all about.

Mr. Shibley: Now when you looked -----

Mr. Bullbrook: I am sorry, could you permit me to just for a moment, as I understood your evidence, Mr. Fleck, basically though your request was in the context of how Hydro had handled the proposal method?

Mr. Fleck: That was the context in which Mr. Cronyn's

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(Mr. Fleck)

remarks were made to me.

Mr. Bullbrook: I thought you had received those remarks in that context and that your motivation was in that context?

Mr. Fleck: No, no, I wouldn't want to mislead on that. I added that the additional bit of information was the focusing of the press on this particular event ~~and~~ therefore then I ~~became~~<sup>was</sup> interested in the particular event.

Mr. Bullbrook: Yes, well, again this becomes ~~a~~ question of recollection. If you could help me - and I know you have said you can't recall the exact detail that you asked of Mr. Gathercole at that time, but I really need to be helped as to what you conveyed to Mr. Gathercole.

Again, is it that you just said to him, "Give me some narrative explanation as to the letting of the contract"?

Mr. Fleck: My recollection, and it would be that, is that I asked for a narrative statement on the events surrounding the Hydro project, just something that would lay out for me what it is that had happened, <sup>and</sup> that would help me to understand the situation.

Mr. Bullbrook: Again I am sorry to interrupt you, but I just want to carry this forward, because really, as I recall the evidence, of Mr. Cronyn and your evidence in connection with your discussion, it is certainly consistent in this respect; That Cronyn in effect had said to you that he believed that in the context of what COGP wanted the way Hydro had done this was sloppy, I think he characterized it as sloppy.

Mr. Fleck: That the procedures were sloppy, ~~and I think~~<sup>believe</sup> is the way it was -----

Mr. Bullbrook: Now help me, if my recollection is correct, he also conveyed to you that he wondered whether at least one of the contractors - and I can't remember whether he identified Ellis-Don - had sufficient time to prepare the proposal?



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Mr. Fleck: No, as I recollect the conversation, he identified him because I made the note "Ellis-Don."

Mr. Bullbrook: Well I didn't want to be unfair.

Mr. Fleck: And that there was an indication that they had not had sufficient time to do a good job of making a proposal.

Mr. Bullbrook: The proposal itself, right. And in addition, he conveyed to you at that time that there was a lack of response to Ellis-Don by Hydro in connection with further inquiries?

Mr. Fleck: He mentions that in his testimony. I do not have recollection of that particular point. I can't dispute it, but I don't have recollections of it.

~~Mr. Bullbrook: I want it understood that my understanding~~

Tape H - 982 follows

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~~Mr. Fleck:~~

~~Question: Did you read it? - He says he didn't read it~~  
~~But I don't know if he read it.~~

Mr. Bullbrook: But I want it understood that my understanding of your evidence is that, really, aside from the press reports, these are three factual situations, or at least two, that Mr. Cronyn complained about in the context of COOP activities in the future, as far as the proposal method is concerned?

Mr. Fleck: It was the one in particular that I can remember and that has to do with the amount of time.

Mr. Bullbrook: Correct. Okay.

Mr. Fleck: <sup>that</sup> Ellis-Don had had to make their proposal and <sup>the</sup> concern ~~was~~

Mr. Bullbrook: Fine, thank you, Mr. Fleck.

Mr. Shibley: Well, now then, Mr. Fleck, if you look at the exhibit itself

Mr. Fleck: This is Exhibit 112?

Mr. Shibley: 112, what content of that exhibit do you say is responsive to that type of inquiry and request made of Mr. Gathercole?

Mr. Fleck: Well, it lays out

Mr. Bullbrook: Could we first ascertain - did you read it, sir? Upon its receipt?

Mr. Fleck: I'm sure that I must have read it.

It may be that I - I mean, a lot of reading that I would do is what I would call skim reading, where you are going through it very rapidly, but I'm sure that I ~~have~~ went through it.

Mr. Bullbrook: Yes, well, the reason I interrupt again is that I want to - we want to be fair and ~~the~~ request, ~~and~~ ask you to respond to certain contents in there and I want you to have the opportunity of refreshing your mind ~~or~~ if you hadn't read it before, reading the whole thing.

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Mr. Fleck: I'm sorry, Could I just add that I received the note from Mr. Brannan saying that according to their records, Mr. Cronyn was not involved in policy or attending Policy and Priorities or Cabinet, so that would make my comments complete. Sorry, go ahead.

Mr. Bullbrook: No, I am finished.

Mr. Shibley: By the way, Mr. Fleck, do you have the original of Exhibit 112?

Mr. Fleck: Yes, I do.

Mr. Shibley: I'm sorry, Exhibit 114 Ⓢ

Mr. Chairman: 114 is the letter, 112 is the material that was with it.

Mr. Shibley: 112?

Mr. Fleck: I do. There are no marginal notes Ⓢ

Mr. Shibley: I would like to see it, please.

Mr. Fleck: Ⓢ that I'm aware of.

Mr. Bullbrook: You're retaining your sense of humour, Mr. Fleck. This is excellent.

Mr. Shibley: Mr. Bullbrook x wanted to be assured that you had had an opportunity to examine the content of this document. Do you know what it contains?

Mr. Fleck: Very roughly. I mean, I know that it talks about the need for the building. I know that it talks about the fact that there are - I believe it talks about the fact that there are certain dis-satisfactions, but now x I'm sorry, I can't be sure of this, but this is the recollection I have.

It talks about the fact that there were a certain number of proposals, I believe four, and it talks about the fact that they x were carefully analysed and x conclusions drawn to enter into a contract with Canada Square, and then I believe it gives some information on the elements of the contract itself.

And it also talks about the saving to Hydro in that some substantial amount - over \$2 million or something of that sort - that would be saved in annual rentals over continuing to rent space in other premises and that they would own the building at the end of 30 years.





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(Mr. Fleck)

haven't been specific enough. I don't remember having a feeling that this ~~was~~ didn't meet my needs.

Mr. Bullbrook: Let me ask you, Mr. Fleck, again, in the context of your total motivations, but also in the context of what OGP felt was a proper and appropriate method of handling the proposal method of undertaking, <sup>title</sup> Does this add one ~~little~~ to your knowledge in connection with how Hydro <sup>restated</sup> the proposal method, having regard to the information given you by Mr. Cronyn?

Mr. Fleck: Oh, ~~I think~~ I think several ~~little~~ tittles.

Mr. Bullbrook: Tell me what those tittles are.

Mr. Deans: How do you measure a tittle?

Mr. Fleck: I'm not even sure what they are, <sup>but</sup> the point is do I think that it's at all helpful to me? <sup>Yes.</sup>

Mr. Bullbrook: Well, let me then get away from the ~~legalese~~ legalese, okay? Let me suggest this to you, in connection with the proposal. I'm reading from page 21 paragraph 2, ~~and~~ I'm going to preface my questions by saying to you that I agree with what this document says. The document ~~has~~ totally says: 1. Why we built the building ~~where~~ we built it. 2. Why Canada Square got the contract. 3. Why we entered into a lease-purchase arrangement which is, we consider, financially feasible.

But talking about the proposal method, again <sup>page</sup> page 3, it says: "Five private developers approached us and expressed an interest in constructing a building for us to our specification ~~on~~ on this site, relieving us of any obligation to raise the necessary financing. On this basis, an outline specification was prepared setting out the accommodation required, the quality of the building and the various responsibilities of each party.

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"Each developer was advised among other things that Hydro owned the land and would be responsible for the realty taxes on both the land and building, both during and after construction. The cost of insurance both during and after construction is the responsibility of the developer for the full term of the lease. The amount of commercial area for rental purposes on the lower floors was left up to the developer to decide, based on his appraisal of the feasibility of these facilities in that location.

"Four of the invited developers submitted proposals, all of which were carefully analysed and discussed with each developer individually and a decision was made to proceed to enter into an agreement with Canada Square Corporation...."

And I'm going to close there. ~~Now~~ <sup>Now</sup> One of the things that you had in the back of your mind, Mr. Fleck, was the knowledge from Mr. Cronyn that Ellis-Don didn't have sufficient time to ~~prepare~~ prepare an adequate response to the call for the proposal. Nothing in there brings to your attention ~~any~~ any justification for what Mr. Cronyn told you? Did you follow this up any further?

Mr. Fleck: Well, of course, I did. But perhaps events overlook me, in the sense that ~~that was sent on November 16~~, ~~and~~ I forget the date we received it. Maybe it was November 18 or 17, I don't know. Whether I read it that day or not, I know I read it, but whether I ~~would read it immediately~~ would be another question. And remember, by December 7, we had some rather interesting questions tabled in the House. And, certainly I did get into, in more detail, what had happened after that time.

Mr. Bullbrook: You did?

Mr. Fleck: Now, maybe what you're saying is ~~maybe~~ perhaps ~~maybe~~ I would have done in any event, but there's no question that I did.

Mr.

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Mr. Bullbrook: You see, what sticks in the back of my mind, so we understand each other fully, you, in your evidence yesterday, quite justifiably, brought to the attention of the committee <sup>that</sup> one of your responsibilities isn't to react, but to act in advance. And we know from the evidence ~~in~~

Mr. Fleck: To anticipate it.

Mr. Bullbrook: Yes, to ~~anticipate~~ anticipate it. And we know from the evidence, for example, on page 4 ~~where~~ <sup>where</sup> it was almost lifted word for word in part of the response to Mr. Nixon's questions.

Mr. Fleck: I'm sorry, what ~~was~~ <sup>why</sup> that?

Mr. Bullbrook: Page 4 talks about Canada Square got the ~~word~~

Mr. Fleck: Page 4 of the exhibit, yes.

Mr. Bullbrook: Right. It was almost lifted. And I presume, and I think I recall that you were at least instrumental, if ~~not~~ responsible, for the answering of those questions.

Mr. Fleck: No, no. The Hydro were responsible for answering them.

Mr. Bullbrook: They were? ~~They were?~~

~~Didn't your office actually answer for the Hydro the~~  
response?

Mr. Fleck: The responses were ~~prepared~~ prepared by, I presume, Mr. Candy, but in any event, Hydro. I was sent a draft copy of the response on, I think, December 4, but we can check that ~~that the final copy~~ <sup>that the final copy</sup> I believe ~~was~~ <sup>was</sup> on December 11, that it ~~was~~ <sup>was</sup> sent to Mr. Brannan in Cabinet office and I think it was tabled on December 14. I ~~have had two people~~ <sup>have had two people</sup> ~~confer with~~ <sup>confer with</sup> ~~Mr. Brannan~~ <sup>Mr. Brannan</sup>

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Q (Mr. Fleck)

~~and I think it is called on the table.~~ I have two phone conversations with Mr. Candy that relate to another ~~subject~~ subject actually; and in addition I have a meeting with Mr. Candy, I believe on the 5th but I am not positive of that ~~it is~~ <sup>it is</sup> some time shortly after ~~in fact~~ <sup>in fact</sup>, I think in Mr. Gathercole's note when the draft reply is sent, or I get it. I don't know whether it is addressed to me or to the Premier or who, but in any event I get it. At that time he mentions that Mr. Candy will be in touch with me, I believe; and it is shortly after that, I believe the next day, but I am not sure of that, that I do have a meeting with Mr. Candy and do go over with him the draft.

Mr. Bullbrook: The draft. In connection with the responses to the question?

Mr. Fleck: That is correct, ~~that~~

Mr. Bullbrook: Getting back to this, I am sorry for diverting you but I wanted to record ~~that~~ <sup>that</sup> ~~the substance~~ a great deal of the substance of this did find its way to the response of the Leader of the Opposition. Getting back to the COGP and, Cronyn's worry, your worry, the total context of the worry being, 'is Hydro setting a course of action here in connection with the calling of development proposals that is not in conformity with what COGP thinks is proper. ~~and that~~ <sup>I want to</sup>

Mr. Fleck: Whoa.

Mr. Bullbrook: All right.

Mr. Fleck: I think that might be jumping a little far into ~~the~~ <sup>the</sup> conclusion. I think that Mr. Cronyn's concern was that to make the proposal method work, one had to be very careful that the procedures that were developed were ones that would stand up, that would be in themselves worthwhile and that would lead to innovative and creative submissions, ~~and~~ I believe the concern he would have is that certainly in a proposal method it is more difficult sometimes to make the



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evaluation on the part of whoever is giving the contract as to the relative ~~xxx~~ merits of the individual projects, because it is not the same as the tender method. The tender method has the advantage of simplicity. As long as you can read the figures you can tell which is the lowest bid. Now there are, I ~~realize~~ realize, exceptions to taking the lowest bid, but generally speaking, it would be the lowest bid. So that you have a more complex situation when you move into a proposal method. ~~the~~ the concern was that if the procedures — at least, I am now presuming the ~~xxx~~ concern and certainly my concern is that if ~~through~~ through procedures that are not as good as they might be, one gets results or there is a feeling that there is inequity or there is a feeling that each hasn't been given a chance to do a fair job and therefore you don't get the best possibilities. This will reduce the effectiveness of that particular method and might lead eventually to government not being able to really use that ~~xxx~~ method. That is a concern.

Mr. Bullbrook: Right. ~~xxxxxxxxxxxx~~ I appreciate the breadth of your response in that connection and your knowledge with respect thereto. <sup>And</sup> Again, there is nothing on page 3 ~~xxx~~ from which a reasonable person reading that would infer that there was anything done by Hydro that was unfair to anybody, ~~at~~ that Canada Square had any advantage ~~xxx~~ over Ellis-Don or not. Reading that, everyone was treated equally. Everyone was given adequate time.

Mr. Chairman: Well, Mr. Bullbrook, surely that is a conclusion that we ~~xxx~~ have to come to whether or not everybody was given adequate time. You don't expect Hydro to set out at this point that somebody wasn't given adequate time.

Mr. Bullbrook: I'll tell you what I expect Hydro to do: I expect Hydro to respond to Mr. ~~Fleck~~ Fleck's ~~request~~ request. That is what I expect Hydro to do, ~~and~~ I want to find out whether Mr. Fleck considered this a response to his request, and if he didn't consider it a response to his request when he

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(Mr. Bullbrook)

did ~~we~~ consider getting answers.

Mr. Chairman: Well, I think that is a ~~reasonable~~ reasonable question.

Mr. Bullbrook: Well, that is what I am attempting to elicit from the witness, but I am going to stop and turn it over to counsel so that he can do a better job of this.

Mr. Shibley: I am not sure that I can, but I think, Mr. Fleck, it may be significant to this committee to distinguish between what was a fact and what was being represented by Hydro to government as having taken place. Now in that ~~same~~ context, I think what Mr. Bullbrook is pointing to in the document in question, he is putting it to you that when you embarked upon an inquiry as to what had in fact taken place, the response you got by way of the November 15, 1972 memorandum, ~~did not provide you with~~



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~~1972 memorandum~~ did not provide you with the kind of facts that have surfaced in the course of this inquiry or the kind of facts which might ~~have~~ have assisted you to evaluate the complaints of Ellis-Don as relayed to you by Mr. Cronyn. Would you agree with him in that respect?

Mr. Fleck: I really apologize because I don't want to have to make you go through it all again but would you just repeat the last part of that question?

Mr. Shibley: All right.

Mr. Fleck: I found my mind wandering again, for a moment.

Mr. Shibley: Let's start back a way.

In early November you decided you wanted some facts about how Hydro had actually ~~agreed~~ <sup>discussed</sup> about the agreement with Canada ~~and~~ Square.

Mr. Fleck: It was a narrative statement. I might add that <sup>have</sup> sure, I ~~had~~ <sup>have</sup> that ~~information~~ <sup>information</sup>. I don't think I ~~was~~ attributed that much significance to it at that ~~time~~ point. I'm not asking ~~it~~ it in a critical sense with Hydro at that point. I'm just trying to get ~~the~~ statement of ~~what~~ what it is that's happening.

Mr. Shibley: I understand, Mr. Fleck.

Mr. Fleck: It's innocent at that ~~time~~ <sup>time</sup>.

Mr. Shibley: On the other hand your concern is that you've heard rumour of an effort by the press, you've heard the complaints referable to Ellis-Don <sup>from</sup> ~~to~~ Mr. Cronyn and you ~~were~~ <sup>are</sup> ~~concerned~~ <sup>concerned</sup> to anticipate trouble if there is any.

Mr. Fleck: I'm trying to anticipate events, sure.

Mr. Shibley: And part of your method of anticipating events, as you described them, is to ask Hydro to tell you what actually went on?

Mr. Fleck: Yes, I'd like to be better ~~in~~ <sup>more</sup> informed. That is correct.

Mr. Shibley: What Hydro provided <sup>s</sup> you with is the document of November 15?

Mr. Fleck: Correct.

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Mr. Shibley: And in the light of what ~~has~~ has evolved at this hearing, that document doesn't tell you what went on at all?

Mr. Fleck: ~~That's~~ It starts. My inquiries aren't as detailed, I'll grant you, but the document here is a start; is a help; and, of course, remember that I would receive that, I would guess. Is there a date stamp on that by the way? It would help.

Mr. Shibley: I was going to ask you to produce the original copy of the letter to the Premier. You've ~~me~~ given me a duplicate ~~a~~ copy of it.

Mr. Fleck: That's my copy.

Mr. Shibley: No, it's a duplicate copy of the letter to the Premier.

Mr. Fleck: But it still is my copy, I'm ~~now~~ sorry. It's the one that's addressed to me.

Mr. Shibley: I'm sorry. But there's no receipt stamped on this. I would like you to produce the ~~the~~ Premier's original copy on which there undoubtedly is a receipt stamp.

Mr. Fleck: Yes, I will attempt to do that.

Mr. Shibley: Just leaving aside for the moment when it was received, Mr. Fleck, this is one time I'm going to make my purpose clear because I think it would help everyone without offending anyone.

Hydro had a certain area of responsibility respecting the letting of this contract. There may be some area<sup>s</sup> of responsibility of government respecting the letting of that contract. We are engaged in an examination as to whether Hydro fulfilled its responsibilities and, also, whether government fulfilled its responsibilities. And in the latter respect, whether government was provided by ~~Hydro~~ Hydro, whether before, during, or at the time of, or following the making of the contract, with such information as would permit government to ~~a~~ know the facts of what was going on.

Now, it appears at this juncture, the contract has been let and you are making a request for an outline of the facts of what went on, and ~~a~~ <sup>the</sup> representation made to you by Hydro ~~and~~ those facts as outlined in the November 15 document.



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(Mr. Shibley)

The committee is interested in knowing whether that document was ~~responsive~~ responsive to the type of facts and inquiry that you were engaged on at the time and, for that matter, whether the document is factual per se in all ~~and~~ its respects.

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(Mr. Shibley)

~~actual per se in all its respects. Right?~~ Against that background, I think what the committee is now enquiring into ~~is~~ whether you consider the document responsive to the type of information you were requesting of Mr. Gathercole? Let's start with that.

Mr. Fleck: Well, I think maybe I could answer it in this way. The point is ~~perhaps~~ one point I believe Mr. Bullbrook was making ~~is~~ it responsive in the sense of providing me with the information I want, given the context of the question that Mr. Cronyn raised, which is a different question from ~~what~~ whether →

Mr. Shibley: Yes, I realize ~~that~~.

Mr. Fleck: ~~by~~ Mr. Gathercole has responded to my request. Because my answer would be that Mr. Gathercole has responded to my request; maybe I haven't been specific enough in my request. In answer to Mr. Bullbrook's question, I would say it provides me with some information, ~~but~~ It ~~did~~ would not provide me with enough information to make a judgement on the particular terms of the proposal and the amount of time that had been provided prior to the granting of the contract.

Mr. Bullbrook: My colleague, Mr. Renwick, is looking quizzical.

Mr. Renwick: Mr. Chairman, ~~could I~~ -- one question really bothers me now. Do you, in fact, recall making a request to Mr. Gathercole by telephone, or before or after the meeting on the 9th? The reason ~~is~~

Mr. Fleck: No.

Mr. Renwick: The reason I ask that and I want to give ~~you~~ the reason I want to ask you, ~~is~~ I also have problems being efficient about the Day-Timer that I use. Could it be that, when you had whatever the meeting was with Mr. Cronyn, you were aware that Mr. Gathercole was coming to see the Premier on the 9th and that you flipped your diary over and

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made the ~~mk~~ note on the 9th to remind yourself to speak to Mr. Gathercole?

Mr. Fleck: It's conceivable.

Mr. Renwick: Now since you are not, as I understand it, you are not -- I took your evidence yesterday that you clearly recalled making the request in person to Mr. ~~Gan~~ Gathercole by telephone ~~on~~.

Mr. Fleck: No. No.

Mr. Renwick: ~~on~~ Today, you are not too certain so I do want, ~~so~~ <sup>that</sup> we are not following a red herring. Do you recall specifically asking Mr. Gathercole for this information?

Mr. Fleck: No. In fact, I think this is consistent with the testimony I have given before. I said in the first go-round that I wasn't sure whether it was Mr. Candy or Mr. Gathercole but I'm sure it must have been. I said, I'm sure; I didn't mean I recollected it. I'm sure it must have been Mr. Gathercole because to the best of my recollection I don't meet Mr. Candy, <sup>or</sup> know Mr. Candy; I ~~do~~ know of him but I don't <sup>I think</sup> know him until December, and that's why, in my mind, it is one of ~~the~~ <sup>the</sup> two. It's got to ~~be~~ be the one. I do not and have not indicated that I specifically remember doing it. I am just saying that I know I got the information. I know I intended to get the information. I know I have a note referencing that and I am sure, then, that I did, in fact, make contact with him to get it. But in terms of recollecting it, I do not; and I believe that is consistent with everything that I have said.

Mr. Walker: You said that yesterday. "I do not recollect".

Mr. Fleck: So really I am pulling together <sup>th</sup> what I guess is circumstantial evidence, ~~that~~ in my own mind, to convince myself of the particular events that took place.

Mr. W. Newman: Just to re-affirm, Mr. Fleck, what you said, Could it have been possible that Mr. Gathercole, at the time you spoke to him by phone or asked him, did tell you

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at that time there was a report on the way? Can you recall?

Mr. Fleck: It's possible. I do not recall. I do not have a recollection but it is possible.

Mr. Allan: Mr. Chairman, there is one little matter that perhaps you could clarify for me, ~~it~~ <sup>it</sup> may have been clarified yesterday ~~and that is~~ <sup>that</sup> in some of the questions that have been asked this morning, I haven't been able to determine what was in the mind of Mr. Fleck, Was he seeking information regarding what had happened in the letting or the accepting of the proposal of Canada Square? Or was he seeking information on the broader basis, having in mind the ~~policy~~ <sup>policy</sup> ~~that~~ <sup>that</sup> the government was concerned about?

Mr. Fleck: I think, to be fair, I would have to say both. I would have to say both. I couldn't, in my own mind, <sup>(say)</sup> it was just the broader question because I do have the specific reference to Ellis-Don, but it's not something at that point I am giving very much importance. ~~I mean~~

H-987 follows





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M.R.

(Mr. Fleck)

... but it's not something that at that point I am giving very much importance. It's not something that a great big red flag is run up, that I'm running around trying to find out what ~~had~~<sup>has</sup> happened. It's something that has been mentioned. It's something that to me could create a problem in the sense of this broader context that I'm talking about. There is also the thought in my mind that the newspapers are looking at this, and at other things, you see; and I have the feeling the newspapers are doing it in ~~the~~<sup>the</sup> way in which they are trying to find something to embarrass the government with, so that it doesn't mean that it is necessarily bad, the fact that they are looking at it.

So that I have all of these things in my mind at that time but I am really just trying to get more information — but it's for a variety of reasons.

Mr. Chairman: Is this the only matter you were working with on November 15th or 16th?

Mr. Fleck: No, one of very many.

Mr. Chairman: I think you said earlier that events may have caught up with you on the matter.

Mr. Fleck: Yes.

Mr. Shibley: Well, another thing to assist you, Mr. Fleck; you don't appear to have considered it so urgent as to have acted on the information provided by Mr. Gronyn immediately because you met with him on or before the 4th and you ~~see~~

Mr. Fleck: Correct.

Mr. Shibley: ~~see~~ and you ~~had~~<sup>didn't</sup> arranged for the letter until the 9th? At least, you didn't ~~arrange~~

Mr. Fleck: Correct. We don't think it's until the 9th but it certainly is not something that in my mind had a high priority, high degree of urgency at that point in time.

XXXXXX

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Mr. Shibley: I might tell you, Mr. Fleck, I have, over one of the recesses, been told by counsel for Hydro that it was November 9th on which the first work was undertaken on the November 15 memorandum and it does therefore appear to confirm that date as the date on which you requested *this*.

Mr. Fleck: If it was prepared as a result of my request.

Mr. McCallum: Mr. Shibley, I believe you are right if you would just add one further word.

Mr. Shibley: All right.

Mr. McCallum: It was the first recorded work that we can find <sup>any</sup> evidence of, sir. Whether they were doing work earlier than that and not recording it for the records were destroyed, we have no knowledge.

Mr. Shibley: Yes. But to the extent that there are records within Hydro, as I understand it, the first such records are as of November 9th, 1972?

Mr. McCallum: Yes, sir. You are correct.

Mr. Shibley: Then, Mr. Fleck, getting back to other though; I was dealing with the question of urgency. It now appears that in your mind the matter would wait for the five days or more between November 4th and November 9th, when you made the request with Mr. Gathercole?

Mr. Fleck: That would be reasonable, yes.

Mr. Shibley: So that it was not, as you say, a great big red flag waving. You felt you might wait and, as Mr. Renwick is speculating, you might even have noted it ahead to request it as at the time Mr. Gathercole was coming.

Mr. W. Newman: Mr. Chairman, <sup>there is just one thing that</sup> ~~there is just one thing that~~ is not quite clear to my mind. Mr. Fleck, in your Day-Timer of the date of November 7th, I believe, was your notation about your meeting with Mr. Orenyn and, as Mr. Shibley has indicated this morning that Mr. Orenyn was away at that time, is it possible that meeting could have been cancelled?



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12.50-12.55 p.m.  
M.F.

H - 988 - 1

(Mr. Renwick)

~~to pin down the other alternative is equally consistent~~  
~~with the minutes of the meeting on November 8th~~  
about Mr. Nagtich's concern

Mr. Shibley: Except, Mr. Renwick, that ~~~~~~~~~

Mr. McCallum: Mr. Shibley, I wonder if I could just remind -- just as Mr. Renwick has said, it is equally consistent, perhaps, with the meeting on the 8th. It <sup>is</sup> also, <sup>it</sup> seems to me, equally consistent with the evidence that Mr. Gathercole gave you initially when he pointed out, and he, I think, introduced a series of exhibits ~~an~~ of newspaper articles, if you remember, which had been coming out in the newspapers in the first three, four, five and six days of November, and he said that they were moving then, his PM people were moving then to get ready answers, because they figured <sup>it</sup> as a result of what the newspapers were saying, they could almost surely expect that those questions were going to come up in the House when the House sat again, ~~so~~ perhaps that shouldn't be overlooked, either, when you are just thinking of the whole of the evidence that was available at that time.

Mr. Shibley: Except for this, members of the committee, The covering letter of November 16 to the Premier says:

"Attached is a copy of a statement prepared with Mr. Candy, commission architect, setting out the essential elements", whereas the memo of the meeting of November 8th, exhibit 106, says:

"It would be advisable for those sections of the property, engineering and finance divisions concerned to prepare a detailed statement on why the commission has proceeded in this manner".

Now I am not sure, Mr. McCallum, whether that helps distinguish between the two undertakings or not.



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fvk

Mr. McCallum: I find ~~that~~ there's some difficulty, too, but

there is certainly a strong thought arises from that; that ~~they~~ <sup>they</sup> were working on it and that they had other people in mind in making a more thorough review than, perhaps, anything that Mr. Fleck had requested and that this material would be, perhaps, more consistent with that aspect, ~~than~~ hence Mr. Gathercole's evidence, than it would be being responsive to Mr. Fleck and his question. I'm not, in any sense, trying to throw doubt on Mr. Fleck's suggestion that he spoke, sir. I'm simply saying that the evidence that you have in front of you does look as if it was very consistent with the sort of thing that had happened earlier and that Mr. Gathercole had referred to.

Mr. Shibley: I'm sure that Hydro can undertake an internal inquiry as to the lines of communication that took place on November 9, or whenever, reflecting the instructions of the chairman to prepare the material requested by Mr. Fleck, and assist us to the extent possible.

Mr. McCallum: Yes, sir. <sup>We have started, and</sup> we'll certainly be prepared to do that.

Mr. Renwick: Maybe it's the hour?

Mr. Chairman: Mr. Shibley, I would just suggest it would be a good time to recess for lunch.

Mr. Renwick: Perhaps Mr. Shibley would just clear up the one point that Mr. McCallum raises and perhaps direct Mr. Fleck's attention to exhibit 109.

Mr. McCallum: Which is that, sir?

Mr. Chairman: That's the Economics of Hydro, exhibit 109.

Mr. McCallum: Yes, that's right.

Mr. Chairman: It's a press clipping.

Mr. Renwick: <sup>which</sup> ~~that~~ is the one, I believe, Mr. McCallum would be referring to.

Mr. McCallum: Yes, Mr. Renwick, you're correct. It was one of the ones to which I made reference. I think you'll find, back in the evidence, we also referred <sup>to that</sup> ~~you~~ probably put in another clipping which was on, I think, the first of that

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fvk(Mr. McCallum)

month, sir.

Mr. Renwick: No, the only other one I have was the first of September. It was much earlier.

Mr. McCallum: Yes, you're quite right. I'm sorry.

Mr. Fleck: Is that that Nixon ←

Mr. Bullbrook: Yes.

Mr. Fleck: The one about the location?

Mr. Bullbrook: "Secret ~~State~~ Government Study & Slams Hydro Bureaucracy: Nixon."

Mr. Fleck: That's Nixon. Then it refers to Nixon.

Mr. Renwick: But that's the first of September.

Mr. Shibley: Dealing with the period we're concerned with, it seems to be that the first publication<sup>WDC</sup> in early November; it's dated November 6, 1972. The next one I ~~have~~ have is November 14, the Toronto Daily Star, but the one of significance referable to November 9, would be the clipping.....

(Tape H-989 follows)

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M.R.

(Mr. Shibley)

~~referable to November 9 would be the clipping of the~~  
November 6 article by the Globe. Would this also be one of the circumstances, this article, which contributed to the request on your part?

Mr. Fleck: It's possible, I remember reading this article and it's certainly possible that that would add to the other bits of information. So often in this, there are little isolated bits of information and part of it is *that* you are trying to sort of put things together in a way.

Mr. Renwick: Well, Mr. Chairman, ~~is~~ is it possible during - I don't want to spoil anyone's lunch again today - is it possible to clarify by telephone with Mr. Cronyn whether in fact he was in Toronto on the 7th and whether he saw Mr. Fleck on the 7th, because that would ~~help~~

Mr. Fleck: He has clarified to me that he was not here on the 7th and that he was in ~~an~~ I realize you may want to go direct to the ~~man~~

Mr. Renwick: No. I thought he had said that he thought he was in ~~an~~

Mr. Fleck: No. No. He said he was in Florida at that time.

Mr. Shibley: I think what Mr. Renwick is driving at is that it would fit the chronology. November 6th there is an article, November 7th he's met with you as per your Day-Timer but ~~very~~

Mr. Fleck: Maybe he flew back.

Mr. Renwick: As I take it then, Mr. Cronyn in his conversation with you was definite that he went to Florida on November 5th?

Mr. Fleck: Well, no, he is not definite on the specific date he ~~a~~ goes. He is definite he was there on the 7th. And he thinks it was the 5th he went.

Mr. Renwick: That would also be consistent because if he went on the 6th, he might very well have read the <sup>the morning</sup> Globe and Mail;

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M.R.

(Mr. Renwick)

he might very well have seen you on the 6th. You may have made the note for the next day about his ~~and~~

Mr. Fleck: Or it's also consistent, if we are just trying to find ~~it~~, if we are again speculating, it is also consistent that he may have mentioned ~~it~~ to me at some prior date. When I see this, it triggers me and I then make the note about JBC, Hydro, Ellis-Don, ~~I mean~~ ~~that's all~~ I'm just trying to think ~~and~~

Mr. Renwick: All I'm asking is that I want to eliminate speculation, ~~if we~~ if we could find out when Mr. Cronyn left Toronto.

Mr. Shibley: ~~He might~~ He might

Mr. Fleck: Because I would certainly have read this on the 6th, no question.

Mr. Renwick: Or ~~maybe~~ perhaps even on the late evening of the 5th.

Mr. Fleck: Maybe.

Mr. McCallum: Mr. Chairman, just before you break for lunch, may I just remind you of one other bit of evidence ~~that's been~~ that's been before you - Exhibit 113. Reference was not made, I don't think this morning, other than to the fact of a letter to the Hon. James Auld, but the contents of that letter are revealing because they say that the enclosure is being made in respect of the head office building "which I have submitted to Mr. James Auld in order that he may be well informed of the situation prior to the opening of the Legislature."

And that was a circumstance that you may find ~~it~~ relevant in your consideration of what prompted this memo of the November 15th.

Mr. Chairman: Thank you, Mr. McCallum. We are adjourned ~~x~~ until 2.00 this afternoon.



## APPEARANCES

Committee members:	J.N. Allan
	J.E. Bullbrook
	I. Deans
	M. Gaunt
	L.C. Henderson
	R.G. Hodgson
	W. Hodgson
	J.P. MacBeth (Chairman)
	W. Newman
	J.A. Renwick
	G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Shibley, QC
	J.P. Bell
Ontario Hydro counsel:	Pierre Genest, QC
	James McCallum, QC
Canada Square Counsel:	Douglas Laidlaw, QC
	Blair Cowper-Smith
Chief executive officer, Office of the Premier:	J.D. Fleck



LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Thursday, July 5, 1973

Afternoon session





July 5/73  
2.40 to 2.45 pm  
DT

(Mr. Chairman)

long and distinguished service. Committee chairman, John MacBeth, called CKEY's broadcast regrettable. New Democrat James Renwick, termed it irresponsible."

That, ladies and gentlemen, is the statement and, Mr. English, I am pleased to have received it from you and have read it into the record. Now, Mr. Newman.

Mr. W. Newman: Mr. Chairman, having sat through the hearings all day yesterday, listening to the evidence, I am very much ~~concerned~~ concerned about an article or a heading I read in today's two-star edition, ~~which~~, when we are talking about irresponsibility, I think that the Star should be singled out for irresponsible reporting and the headlines in the two-star edition area: "Hydro prober suggests cover-up of Davis link". ~~and~~ I would like to ask, through you, to Mr. Shibley, if he would like to comment on the first paragraph and the last paragraph which indicated that Mr. Davis had prior knowledge of the contract by three and a half months.

~~Next question: Which edition of the~~

Well, to my knowledge, Mr. Chairman, this did not come to my attention yesterday and to my knowledge Mr. Shibley didn't indicate that yesterday.

Mr. McCallum: May I, just before Mr. Shibley starts, add my voice to that that's been raised now. There is another paragraph as well as the first paragraph in this article and the headline to which I hope Mr. Shibley will direct his attention and his comments. There is a further paragraph in the third column which starts off referring to something that Mr. James Bullbrook is reported to have said, ~~and~~ <sup>the</sup> I am confident was not said by Mr. Bullbrook ~~and~~ I hope that that as well will lead to some comment, perhaps by Mr. Shibley and/or Mr. Bullbrook when the time comes.

~~Mr. Dennis: Which edition of the~~



SELECT COMMITTEE -- HYDRO HEADQUARTERS

H-990-1

July 5/73  
2.40 to 2.45 pm  
DT

The committee resumed at 2.40 p.m.

Mr. Chairman: I call the meeting back to order.

Mr. Shibley was talking to Mr. Fleck until close to 2 ~~at noon~~ <sup>this afternoon</sup> and Mr. Fleck is not back yet. We expect him momentarily, but in the interval one or two things have come up. Mr. Newman wants to make a statement and I have something to read here. Mr. Howard English has asked me to read this into the record and I am pleased to do so. It is reported by Howard English at 12 noon, July 5, 1973. It reads:

"Committee members involved in the Legislature's Hydro hearing today described a news report on this station as irresponsible ~~and~~ and regrettable. Broadcast by this reporter at 11 last night, the controversial item focused on previous testimony by Hydro chairman, George Gathercole, and remarks by legislative committee legal counsel, Richard Shibley. The news reports said Mr. Shibley had accused Hydro chairman of withholding information. Mr. Shibley was attempting to find out why Mr. Gathercole had not mentioned that a detailed report of events preceding the Hydro head office contract award to Canada Square was requested by James Fleck, the Premier's chief executive officer. Mr. Shibley indicated today no accusations were made and no inferences should have been drawn by reporters." It just says -- "by report." "His exact words yesterday were, 'I want to know whether there was any motivation on the part of Mr. Gathercole and other people within Hydro in failing to disclose to me the circumstances respecting the preparation of the November 15th document.' Mr. Shibley also said, 'I am simply conducting an inquiry as to whether or not the failure to disclose the circumstances for the creation of the November 15, 1972, document was simply inadvertence, oversight and innocent or, on the other hand, was, in fact, part of a course of dealing with matters such that those ~~same~~ circumstances would not be brought to the attention of this committee.' Ontario Hydro lawyer, Pierre Genest, claimed that ~~simply~~ simply suggesting information was withheld can destroy Mr. Gathercole's reputation earned through





July 7th, 1973

2.45 - 2.50 pm

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AA

=

(Mr. McCallum)

~~will lead to some comment perhaps~~

~~Mr. Bullbrook then says~~

Mr. Deans: Which edition?

I think to Mr. McCallum: the two star edition, the one which Mr. Newman is making reference.

Mr. Deans: The third column?

Mr. McCallum: These columns that I have, I am sorry, are adjusted, but it starts off saying, "James Bullbrook, (Liberal, Sarnia) said he feels Gathercole, etc."

Mr. Bullbrook: Would you help me Mr. McCallum?

Mr. McCallum: Sir?

Mr. Bullbrook: I am trying to find out exactly what I did say. I know I didn't say that. But

Mr. McCallum: I will get it for you and bring it right over to you, sir.

Mr. Bullbrook: Yes, thank you.

Mr. Chairman: Mr. Shibley.

Mr. Shibley: Well, I must tell the committee that I <sup>last</sup> only now read the reports in question and only hurriedly at that. I should tell you that my initial reaction is one of great concern and of a very large measure of disappointment in the press in respect of this report. I do not know how or why this type of headline or even, in part, content should <sup>be</sup> ~~appear~~ <sup>et</sup> in this newspaper and in this form.

Mr. W. Hodgson: Louder, Mr. Shibley.

Mr. Shibley: This morning when the matter of publication by radio was raised, Mr. Renwick kindly alerted everyone to the circumstance of my statement yesterday at the conclusion of the hearing. You will remember that we had been discussing the question of night sittings at some length and I had taken the ~~long~~ interruption, so to speak, to consider further and very carefully the



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AA

(Mr. Shibley)

objection raised by Mr. Genest, ~~and~~ looking at the question that I had last put to Mr. Fleck, which gave rise to the objection, I still view the question as being inoffensive, fair and open to the witness to present one of two alternatives as a rationale for the failure of Mr. Gathercole to testify initially as to the correct circumstances for providing the document in question. But I went far beyond that, far beyond the form of the question itself, in attempting to be fair to Hydro. I made a statement and I want it to be part of this statement, which I now make, referable to the article in the Toronto Star. I said yesterday, and I am reaffirming that statement today, ~~There~~ There is one thing that concerns me a ~~little~~ little bit. I am sitting here reflecting very carefully upon what Mr. Genest has said, and the last thing I ~~want~~ want to do is be unfair or create wrong impressions referable to anyone on the Hydro side, who have been more than cooperative. I am concerned that my last line of examination of this witness may lead people to jump to conclusions pending the completion of the evidence. I felt it essential to put the questions to this witness ~~around~~ around whom much turned in this area of examination.

"I ~~want~~ want to go on record and be perfectly understood that at the moment I am simply conducting an inquiry as to whether or not the failure to disclose the circumstances for the creation of the November 15, 1972, document was simply ~~inadvertence~~ <sup>inadvertence</sup>, ~~an~~ oversight and innocent, or, on the other hand, was ~~a~~ in fact, part of a course of dealing with matters such that those circumstances would not be brought to the attention of this committee. I am concerned about it. I have got





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2:50-2:55pm  
C.B.

(Mr. Shibley)

~~on my part or a suggestion~~ on my part adopting the terms of the headline "Hydro ~~Prober~~ suggests", I'm afraid I can't follow that. How it can go on to suggest a cover-up or use the words "cover-up of Davis link" in terms of being something suggested by me, I again ~~do~~ <sup>can</sup> not understand.

It is my intention, as it has been from day one, to have the ~~exam~~ <sup>(w/Role)</sup> of the examination fair and objective. I would have preferred that there was a method by which conclusions as to any given question could have been deferred pending the completion of all evidence.

We are still in the middle of the evidence of Mr. Fleck. There is yet to come the evidence, by way of explanation, of Mr. Gathercole and Mr. Candy and others. What truly disturbs me to the point where I feel that if this is the sort of consequence that emanates from putting questions on what ~~has~~ has been a called "delicate questions", "delicate issues" to witnesses, ~~then~~ I'm inclined to agree with Mr. Genest that the reporting of the questioning could do more harm than the conclusions of the committee.

I don't know how this is prevented. I just want to assure the members of the committee that I feel that this kind of reporting impairs rather than assists. It certainly impairs me in the feeling I have to range far and wide in the form of my questioning, ~~and~~ if it is to be continued, then obviously I am going to be put in a position ~~for~~ where my questions, ~~are~~ rather than being as prodding as they might otherwise be, are going to have to be geared to the method



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AA


(Mr. Shibley)

Mr. Fleck's position and the position of the Premier's office on record. I intend to get Hydro's position a matter of record.<sup>92</sup>

Now, how, following that statement, any member of the press, whether radio or newspaper, could formulate <sup>a</sup> conclusion on my part ~~for~~ a suggestion on

~~my part for a suggestion on the basis of the same or, indeed,~~

H 992 - 1 follows





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2:50-2:55pm

C.B.

(Mr. Shibley)

by which those words are employed by the press.

Now, whether wittingly or unwittingly, and I don't want to direct undue criticism at anyone, I think it's time. In fact I think it's overdue for the press to demonstrate some responsibility in the matter.

Mr. Fleck: ~~It would be great to see that quoted.~~ ~~incredible~~

Mr. Shibley: Thank you. ~~I think,~~ If I have the

confidence of this committee and if I have the confidence of the people of the press, then I am owed a reciprocal measure of responsibility on their part. Otherwise, as I say, I am going to have to approach my questioning of people ~~and~~ the introduction of witnesses differently than has been the open and frank and, I admit, sometimes abrupt method that I have felt required to employ to this point of time. I have nothing further to say, Mr. Chairman.

Mr. W. Newman: Mr. Chairman, further to my original comments, I don't know that Mr. Shibley has read the total article, but certainly I am very much concerned about the second last paragraph, to my knowledge nothing of this sort came out of the evidence yesterday. I'll read it into the record "Evidence ~~to~~ the inquiry has indicated that Davis was aware that Moog would receive the contract a month before the decision was announced publicly, and three and a half months before the contract was signed."

Mr. Shibley: That is quite wrong. I don't want ~~to make~~ you to go any further with it. That is quite wrong. There is no evidence, ~~that~~ to this point of the inquiry ~~that~~





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2:50-2:55pm

C.B.

(Mr. Shibley)

Mr. Davis was aware that Mr. Moog would receive ~~a~~<sup>the</sup> contract  
a month before the decision was announced, publicly or  
otherwise; ~~not~~<sup>not</sup> that he was aware that Moog would receive  
a contract three and a half months before the contract  
was signed. ~~That is absolutely incorrect, and if anything~~  
~~inconsistent.~~

H993 to follow



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2:55 - 3:00 pm  
CA

H-993-1

(Mr. Shibley)

~~before the contract was signed.~~ That is absolutely incorrect and, if anything, inconsistent with the evidence to this point of time. The witness that is presently in the witness box has said that the first notification to the Premier's office was the press release of July, 1972, and at a point of time when they, up to that time, were only aware of the following<sup>line</sup> and I might recap it. There was a discussion, very informally, between the Premier and Mr. Gathercole at the Pickering opening. There was a communication in May<sup>X</sup> I think it is May 16, 1972<sup>X</sup> from Mr. Gathercole to ~~any~~

Mr. R. G. Hodgson: Mr. Davis.

Mr. Shibley: Mr. Davis, referencing an earlier discussion with ~~Darcy~~ McKeough, and asking for advice, I believe, without response. Then came the press release of July, at which point of time the Premier's office interpreted the matter as an accomplished fact. And if there is any substance in this particular part of the report, it could only be predicated on a fact that the press release was received in July and the contract not signed until November 1, but it fails to state that in the minds of the recipients of that press release in July they believed that the contract was an accomplished fact. Is that not right, Mr. Fleck?

Mr. Fleck: That is right.

Mr. Shibley: Yes. So ~~that~~ I suppose against that background it is another situation where evidence can be cited; but if it is cited out of the context in which it is presented it is given a different interpretation by the public than is correct.

Mr. Chairman: Thank you, Mr. Shibley. I would like to just make one or two comments too to the media. It has to do with the rights of this committee, and as I understand our rights and your responsibility to us, that we are much the same as a court of law. Now some weeks ago one of the newspapers carried an article <sup>purported</sup> ~~reported~~ to be an interview with one of the people that we would likely call as a witness. Now it is the sort of thing that I don't think a court would in any way stand for. ~~And~~ I saw it, and I am assuming responsibility on this for myself, because at the time I wrote a little statement here which I intended to read into





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2:55 - 3:00 pm  
CA

H-993-2

(Mr. Chairman)

the record, and I have just fished it out of my file now, and I'll read that.

"I believe it would be a mistake for me to ignore the matter without comment."

What I am referring to is this article that appeared some time ago.

"Some damage <sup>has</sup> already <sup>been</sup> done through public opinion. We have however a rather sophisticated committee whose role is that of not only presenting the evidence but in weighing it as well, and I believe we will properly ignore the article in our own deliberations. However, this type of reporting should not occur again."

Now I decided that there was no need for me to read that at that time. Evidently I was wrong and I probably should have. But I think that the members of the media should remember that they owe to this committee the same sort of respect and treatment that they would give to a court of law. They should not come to conclusions before we come to our conclusions and they should not try to beat us to the gun when they are looking at evidence, or when they are considering probabilities. Now I hope that this will be the last of these incidents. I don't want to have to appeal for any ruling to the House, ~~that~~ presents some awkwardness, as well as the House is not now sitting, and I am aware of that, but I am reminding you that these are the duties you owe to us and your responsibilities to us.

Mr. Deans: Mr. Chairman, before you conclude the matter; I want to say that I don't take it upon myself to suggest to the press what they ought to write. Nor do I think it my responsibility to suggest to them what they ought not to write. I think though that the only thing that we could ask of them is that they present the facts to the public as they are presented through the ~~counsel~~ <sup>counsel</sup> and by the committee.

H-994-1 follows





(Mr. Deans)

H-994-1

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~~to the public as presented in the news by the~~

~~editorial.~~ In reading the articles, ~~however~~ other than from the headlines, which the journalists don't write, I draw the conclusions that the problems in the articles are as much problems of omission and not necessarily an attempt by the media to mislead. I suggest that what was in the articles, particularly that portion raised by Mr. Newman, is accurate but misleading.

Mr. W. Hodgson: <sup>How could it</sup> ~~possibly~~ be accurate and misleading?

Mr. Deans: That is what I say, accurate but misleading. It is accurate to the extent that ~~however~~ Mr. Davis did in fact know ~~three and a half~~ months prior to the signing that Canada Square was to enter into negotiations with Hydro for the purpose of consummating a contract. <sup>The</sup> unfortunate thing that was not reported and ought to have been reported in my view was that that was known to him because a press release had been issued to that effect, <sup>and</sup> ~~not~~ not only was it known to Mr. Davis, it was known to a number of other people, too.

Mr. W. Hodgson: ~~That is~~

Mr. Deans: I say it was known to a number of other people. The inference that could be drawn from the article was that Mr. Davis and Mr. Davis alone knew. The fact is that Mr. Davis knew, but so did many other people. ~~It~~ It is not that the article is in error as much as it is misleading because <sup>and</sup> ~~it~~ it doesn't inform the public that he knew as <sup>the</sup> ~~a~~ result of a press release. I think as far as reporting is concerned, I have never been one who has been particularly critical or cried about what has been written, I have always judged and hoped that the press wrote what they believed was accurate. I have difficulty at times in ~~understanding~~ understanding what they based their



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information on, but nevertheless I don't want anyone to feel that as a member of this committee I join in any way in suggesting to them that some action will be ~~seasonably~~ taken if they don't change. <sup>T</sup>the only thing that can be done is that we can appeal to them that they make sure the story they write is a complete story and reflects entirely the position put ~~in~~ before the committee ~~and~~ rather than, ~~whether~~ whether through the fault of the journalist or whether by editing, <sup>it</sup> turns out to be something that is misleading to the public.

I don't impute motive to them any more than I do ~~to~~ any other member of this committee or any ~~such~~ person appearing as a witness. ~~I~~ I want to say in regard to the comment ~~was~~ attributed to Mr. Bullbrook - and he no doubt will raise it himself - that what appears in the press is not an exact wording of what he said, and though the words are ~~in~~ there, the intent is slightly different and that is the problem that we face.

Mr. Bullbrook: Let me comment on that.

Mr. Deans: ~~I~~ I am sure he will comment himself ~~about~~ <sup>that</sup>

when one reads the testimony, the testimony has the words; unfortunately, the words are not exactly the same as were in Hansard and that is what creates the problems for us. I am not prepared to go so far as to say ~~that~~ <sup>that</sup> any point ~~is~~ <sup>is</sup> doubt ~~the~~ the integrity of any person writing about this committee's deliberations. I think ~~that~~ that much of what has appeared in the press, all of what has appeared in the press has been written in good faith.

Mr. Chairman: Mr. Bullbrook.

Mr. Bullbrook: Mr. Chairman, I want to associate myself, I think without any reservation at all, with what Mr. Deans





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(Mr. Bullbrook)

has just said, I intended to premise my remarks in that connection, because it is quite obvious in connection with the paragraph Mr. Newman read that there is some substance in ~~the problem~~ <sup>the problem is</sup> fact; ~~there is not total substance in fact~~ <sup>to</sup> to that particular paragraph, and in the context I would think a reasonable public would take a different meaning than the evidence dictated. I don't think there is any doubt about that.

But I want to point out in my particular circumstances, that really the reporter can glean from what I said perhaps the interpretation that he has given to it. <sup>I want to, and</sup> I will just be a <sup>to set</sup> <sup>for</sup> moment, ~~on~~ the stage ~~at~~ the comment that I did make. In the course of my interjection, it was at ~~the~~ <sup>ca</sup> time when counsel was vigorously cross-examining in connection with the lack of Mr. Gathercole's recollection, or the motivation, rather, at least, in connection with the lack of advice from us under original testimony by Mr. Gathercole. And I interjected as follows: From H-955-3, the afternoon session of July 4th.

"I must say that I really think, in fairness, that we are presuming something through counsel. It might well be coincidental that the preparation of that document resulted, not only or if at all, it might be that Mr. Candy was preparing the document for collateral reasons and it was coincidental."

That is the end of the quote and I want to interject there. I'm sure that Hydro - because they have voiced this to me through their counsel subsequently <sup>felt</sup> felt that was eminently fair in the circumstances and I felt that <sup>that</sup> ~~had~~ to be voiced at the time. Now I continue with the quote:

"I'm saying that there's no valid explanation for



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(Mr. Bullbrook)

it coming from this witness as to why Mr. Gathercole, other  
than his lack of recollection ~~which~~ which seems to be infectious

in this hearing, ~~why did I lack recollection in this hearing~~

~~to Mr. Black, but I do say that it is not well to let the  
evidence~~

(Tape 995 follows)





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(Mr. Bullbrook)

~~seems to be infectious in this hearing~~ why his lack of recollection in the phone call to Mr. Fleck, but I do say that it might well be that the evidence from Hydro could substantiate if Mr. Candy was working on it for other reasons." Now, as you interpret that, my words are "other than his lack of recollection" <sup>about</sup> his being Mr. Gathercole, <sup>about</sup> which seems to be infectious in this hearing."

My intention was, of course, that I was in effect modifying the lack of recollection which seems to be infectious. ~~but~~ I want to substantiate what I meant, the lack of recollection of the famous letter; okay, the lack of recollection of the notations on that document that was prepared yesterday; the lack of recollection by Mr. Gathercole of ~~what~~ what is obviously the significant communication. That's what I meant by infectious. I didn't mean to modify his lack of recollection, but in fairness to the reporter, he could have really taken my meaning to be that, ~~okay~~ okay? Now, I have already apologized if it caused Mr. Gathercole any embarrassment, but I want to say in point of fact that there is substance for my comment in talking about a lack of recollection being an infectious thing at this hearing, in my opinion, and solely my opinion, ~~and where~~ he says, "He feels Gathercole has developed an infectious lack of memory," I didn't mean that and so the record is cleared in that respect.

I want to finish by saying my name ~~is~~ is spelled James Bullbrook <sup>U</sup> B-u-l-l-b-r-o-o-k-e. It goes without saying that the first part of the spelling is not only proper but appropriate. The second part of the ~~see~~ spelling, if we continue with this hearing much longer, will be proper and appropriate, too.

Mr. Shibley: Mr. Chairman, I think I want to add one more thing to what I said earlier and that is this, that when the whole of the evidence is in <sup>the</sup> the whole ~~of~~ of it is in <sup>then</sup> then, of course, anyone is entitled to reach his own conclusions, so to speak on the basis of the record of the whole evidence.

What I am objecting to about these headlines in particular is they reach conclusions referable to issues that are



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(Mr. Shibley)

extant before this committee and about which the record is not complete as to the evidence.

Now, if at the end of the hearing, the kind of conclusions reported upon in today's press are demonstrated to be a fact, I will sit back and be content to see it published. I must have demonstrated my complete ~~readiness~~ willingness to *have* full disclosure made repeatedly before this committee. What it is that I am asking the press to stop doing is to stop publishing conclusions and particularly publishing them as headlines and then leaving the public with a state of mind that can never be varied from, no matter what the balance of the evidence may develop.

Now that's really basic to my concern, ~~and~~ I heard the comment from someone that perhaps different people are responsible for the headline than for the body of the material. Then, if that be so, it just compounds the hazard, because the people sitting in this room know the ~~specific~~ context in which evidence is presented, not the people who are writing those headlines who, I gather, write them in order to create the excitement necessary to sell newspapers, ~~and~~ <sup>and</sup> In those circumstances, as I say, if this sort of thing continues, then I am going to be under some constraint in the manner in which I feel free to conduct my investigation and presentation of evidence.

Mr. Chairman: Well, if that should happen, Mr. Shibley, I think there would be many witnesses <sup>would</sup> be very pleased with the results. ~~However, continue with Mr.~~

(H-996 to follow)





H-996-1

(Mr. Chairman)

~~any witness would be very pleased to do so.~~

However, continuing with Mr. Fleck.

Mr. Renwick: No, Mr. Chairman, I would like to just say one or two things. It is the first opportunity I have had to refer to the record, and I refer the remarks I made this morning to the record as equally applicable to the story in the Star. Secondly I would like it to be made abundantly clear to anyone who cares about the remarks which I as a member of this committee may make that we are sitting here as a select committee of the Legislative Assembly of the Province of Ontario, with rights, duties and privileges in accordance with the long tradition of parliamentary government, having nothing to do with analogous situations to courts of law or other bodies which may be part of our constitutional method of government. In the capacity that I sit here as a member of this select committee of the Legislative Assembly of the Province of Ontario, as distinct from any creation of the government of the Province of Ontario, being the Cabinet, I simply want it understood that the ultimate sanction of this committee is to cite to the Speaker of the Legislative Assembly for contempt irresponsible reporting. I cannot conceive that any of the analogous institutions of our society charged with a similar responsibility, such as a royal commission or a court of law, being public institutions, and that is the only analogy I draw between the three, would stand for one moment for the kind of reporting which was made in the Toronto Star today, and I simply say that if in the evolution or the rebirth, as I hope it is, of the role of the Legislative Assembly in the Province of Ontario and of its committees, we are going through a little bit of growing pains in connection with it, I think it is timely to note that the ultimate sanction is the sanction of citing for contempt through the Speaker of the assembly, and that in appropriate circumstances that this committee, charged with this responsibility, would not refrain, in my view, from exercising that right. I want, when this session ends, that it be clearly understood that in no way has a report in the press, either now or in the past or in the future, affected either the way in which counsel for this committee





H-996-2

(Mr. Renwick)

has conducted his responsibilities to this committee, or the way in which this committee has considered and discharged its responsibilities I think that apart from the specific matters with which this committee is charged, it also is, in a very real sense, either a rebirth or a renewal of the role of the Legislative Assembly in the Province of Ontario, and I for one am certainly not going to see it affected in its deliberations in such a way as would indicate that a select committee is not an appropriate body to carry out this kind of inquiry for which we have been charged and for which we have the responsibility and for which ultimately each member of this committee, regardless of the public feelings of others, must stand in their own ridings for re-election, and that is the ultimate sanction in our system. Thank you, Mr. Chairman.


Mr. Chairman: Your remarks are well <sup>taken</sup> ~~taken~~, Mr. Renwick, and I thank you for them. Mr. Shibley.

Mr. Shibley: You mean you really want to go on with this thing?

Mr. Chairman: Oh yes. Go on in your same manner, Mr. Shibley, Don't let what has happened affect your gentle disposition.

Mr. Shibley: Before the recess, Mr. Fleck, I was referring you to the content of the document which is exhibit 112, dated November 15, and you have already indicated to the committee the purposes you had in mind in soliciting that document. I would ask you now to indicate to the committee, firstly, whether it was responsive to your request and secondly, whether you consider the information contained therein is.

p. 997.2 follows





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AA

(Mr. Shibley)

~~See the document for consideration of the matter, which contained~~  
~~information~~ consistent with information subsequently brought  
to your attention.

Mr. Fleck: The information I subsequently  
obtained?

Mr. Shibley: Yes.

Mr. Fleck: Well, perhaps I should have, but  
I must admit that I did not, during the brief break at lunch,  
go through this and sort of grade it A, B or C on  
that scale. I did try and get some of the other information  
that had been requested during the break and so I really  
not  
had reviewed the documents since then.

Mr. Shibley: I realize that. ~~I think I really~~

~~May~~

Mr. Fleck: I think that I haven't made it  
to the point. Here, I was responding to Mr. Bullbrook's  
question that one of my concerns was the amount of time that  
various developers would have had to make their proposals  
~~and~~ I would agree that I do not get a response to that  
question in this document, but I hasten to add, I don't  
know that I asked for a response to that question in requesting  
the document. Is that helpful?

Mr. Shibley: Yes, that is fine. The next thing  
I want to deal with with you is this, you have read the  
document sufficiently to appreciate ~~on~~ its content referable  
to what we might call the competition that was supposed to  
have been effected as between the four developers and also  
the rationale for singling out Canada Square. Now, I want  
to have your evidence a matter of record as to two points of  
time: First, as at the time you received the document, and  
later as at a time when much more information was available





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AA

(Mr. Shibley)

to you. Now, as at the time you received this document, did you consider it a fair explanation of what had been done by Hydro?

Mr. Fleck: Of course, I didn't have other information other than the one reference that I have indicated before, the Ellis-Don situation. But beyond that, it would be difficult for me to make a judgement as to whether or not it was a fair representation of what had actually happened. I can say that when I received it, and, as I say, I don't remember specifically reading it, although I am sure I did, but I am also sure that it did not evince in me some strong negative ~~response~~ response as a result of reading it. In other words, I must have felt relatively content at that ~~stage~~ stage with the nature of the document, ~~although~~ although I know that subsequently, and this may have had to do with events, I did request and receive and obtain additional information.

Mr. Shibley: ~~Now~~ Was this the first document received within the Premier's office that gave any sort of precise detail as to what Hydro had done?

Mr. Fleck: Yes, I am trying to remember the detail of the press release which I have not reviewed lately, but the press release would be the only previous document, ~~and~~ I believe I am right on this, just let me search my ~~memory~~ <sup>the</sup> ~~the~~ only previous document that I know of receiving that would go into the matter at all.

Mr. Shibley: All right. ~~Now then~~ <sup>have</sup> You had the benefit of reviewing the transcript of the whole of these proceedings to date, have you not?

Mr. Fleck: Yes. I ~~have~~ have had the benefit of the opportunity and I have opened each of the various



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AA

(Mr. Fleck)

sessions, proceedings and gone through them. Some I have checked through very quickly.

Mr. Shibley: Yes. Having regard for what you now know, to be the circumstances surrounding Hydro's letting of this contract to Canada Square, what view do you take of the information presented to you by Hydro by its memorandum of November 15, 1972?

Mr. Fleck: At the moment, I feel hoist on the petard of the earlier discussion about drawing a conclusion, before the end of this inquiry; so I am a little reluctant to come to a conclusion.

Mr. Shibley: I am not asking <sup>you</sup> to reach conclusions for the committee, but I want to know whether you now consider ~~that~~ having been ~~provided~~ with the ~~information~~, as at November 16, the information set out in the document of November 15, that that was an accurate, complete and fair presentation by Hydro to government of what it had done referable to this contract.

H 998 - 1 follows





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C.B.

(Mr. Shibley)

~~by Hydro to government of what it had done referable  
to this contract?~~

Mr. Fleck: I would be able to find evidence of inaccuracy as I ~~now~~ understand the situation.

Mr. Shibley: Yes.

Mr. Fleck: For instance, it says "five private developers approached us". The evidence as I understand it, I could be wrong on this, the evidence as I understand it is that Canada Square were approached by Hydro; I believe it has come through, ~~so~~ maybe you can approach somebody after you've already been approached; I don't know. But I would take that as being a possible inaccuracy, ~~xxxxxxx~~ if that's ~~as~~ far as completeness, obviously I now have a much more complete knowledge of what happened at that time than I would have had, from reading this document; so ~~on~~ completeness I would have to say, ~~I would say~~ that it is not complete. It would have to be pretty big, to be complete.

Mr. Shibley: Before you leave the matter <sup>of</sup> ~~completeness~~ <sup>ness</sup> I want to know about materiality in terms of sins of omission, if you like. Was there material information not included in this document which would permit a proper evaluation of what they had done, by you?

Mr. Fleck: There, I would really have to go over it carefully. I know that there were questions that I raised later, that obviously were, therefore, in my mind not answered in this document. I'd have a little difficulty thinking immediately what they are. I can say that I'm sure that there are some because I do know that I raised





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(Mr. Fleck)

certain questions subsequent to this document.

Mr. Bullbrook: Let me just ask, if I could,  
Surely, Mr. Fleck, the whole question of the time that Ellis-  
Don had available to them must have had some residue in your  
mind?

Mr. Fleck: Since I don't have a recollection,  
I can agree that, related to the comments that have been  
made earlier, it would have or should have a residue in  
my mind and that, as I've already indicated, would not be  
a question that would have been answered in this document.  
Yes, I agree with that.

Mr. Shibley: That is the point, Mr. Fleck, the  
point is whether, as at the submission of this document to  
the Premier, Hydro was being completely candid, if you  
like, with the Premier and your office respecting the  
circumstances surrounding the letting of this contract?

Mr. Fleck: I find that's a very tough question  
to answer. Certainly, my understanding of it is different  
now than it was as a result of reading this document.

Mr. Shibley: In a material way?

Mr. Fleck: Yes, in <sup>the</sup> ~~the~~ material way, with my  
assessment of what is material, yes.

Mr. Bullbrook: May I just ask, would you  
not agree that a reasonable person, in reading page three  
that I went over in detail, would come to the conclusion that  
each of the developers <sup>was</sup> ~~were~~ treated in an ~~equal~~ equal fashion?

Mr. Fleck: I think it is something like reading  
that newspaper article. I think one could draw that  
interpretation from reading it. But again, I don't know  
that it has specifically said that. <sup>It is</sup> ~~That seems to be~~ the  
whole problem of <sup>trying to</sup> ~~interpret~~ <sup>what</sup> ~~when~~ you want to interpret  
sometimes, other times you could take a different interpretation.



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C.B.

Mr. Bullbrook: Right.

Mr. Fleck: I could certainly interpret this as coming away with the feeling that there has been equivalent treatment. Yet, if I read it carefully, I don't think it says specifically that that is the situation.

Mr. Bullbrook: Mr. Chairman, I regard this as very important; perhaps I'm wrong in that respect, but I regard it <sup>as</sup> very important. ~~and~~ In bringing it up, I'm not attempting to say ~~that the fact that~~ <sup>in effect, there</sup> ~~it~~ was a purposeful structuring of this document. I'm saying that, I wanted to ask you, therefore, to be more fair, I think, <sup>to you - when</sup> ~~that you~~ first read it, did you feel that all the developers were treated in equal fashion?

Mr. Fleck: I really cannot remember. I don't have a recollection of ~~that~~.

Mr. Bullbrook: All right.

Mr. Chairman: I feel that <sup>is</sup> the line of questioning we may be asking Mr. Fleck to give a conclusion that we ourselves must reach later on, ~~and I know the material~~ the materiality of it.

Mr. Bullbrook: May I say that perhaps the first question I put was along that line. But I think Mr. Fleck would agree that the last one wasn't. Because ~~I~~ I asked him directly what his feeling was, when he read it.

Mr. Fleck: And I said I don't have a recollection.

Mr. Bullbrook: Yes, he doesn't have a recollection, that's fine.

Mr. Fleck: Again, I may add that ~~the~~ <sup>my</sup> probability of having a recollection ~~is increasing~~ <sup>is</sup> with the strength of my reaction.

Mr. Bullbrook: Absolutely.





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C.B.

Mr. Shibley: Mr. Fleck, I just want to ask you some questions which are relatively unrelated. You have mentioned the discussion you had with Mr. Cronyn in early November. I want to know whether you have any information or knowledge as to what ~~prompt~~ prompted Mr. Cronyn to make that communication to you respecting the Ellis-Don complaint?

Mr. Fleck: No, I do not other than the nature of the context in which it was made, which of course I have gone through but I have

H999 to follow



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Mr. Fleck: No, I do not, other than the nature of the context in which it was in, which of course I have gone through, but I have no knowledge of any other events or things happening at that time.

Mr. Shibley: In particular, did you mention <sup>to</sup> him in the course of your meeting on that day that there was rumour extant that the press were considering an investigation?

Mr. Fleck: Well, first of all, I don't know what day it was, ~~when~~ <sup>that</sup> I don't know if it was the ~~seventh~~ <sup>7th</sup>. I just wanted to establish that. I don't think I would and I have no recollection of so doing.

Mr. Shibley: Did he mention to you the fact that there was a rumour outstanding?

Mr. Fleck: Again I have no recollection that that was the case and <sup>again</sup> I don't think that that would happen.

Mr. Shibley: ~~Is that~~ Have you any knowledge or information as to what prompted Mr. Cronyn to place a telephone call, now called the famous telephone call, to Mr. Smith?

Mr. Fleck: No, I do not.

Mr. Shibley: Mr. Fleck, I want to have your evidence in this respect unequivocally clear. Do I take it that nothing you said and nothing provided to Mr. Cronyn or any innuendo that he might take from any comment or observation or substance of your discussion with him would in any way prompt him to make that telephone call to Mr. Smith?

Mr. Fleck: To ~~the~~ <sup>the</sup> best of my knowledge, no.

Mr. Shibley: And just so that that answer is left open to speculation, I gather ~~that~~ you have given this question in-depth consideration, is that correct?

Mr. Fleck: Yes.

Mr. Shibley: And beyond that, have you pursued the matter otherwise to ensure that your recollection is correct?

Mr. Fleck: Well, you asked before if I had had subsequent conversations with Mr. Cronyn, ~~yes~~

Mr. Shibley: Yes.



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Mr. Fleck: I have had subsequent conversations with Mr. Cronyn, ~~and~~ I asked Mr. Cronyn whether in his opinion anything that I ~~was~~ might have said in any way would lead him to have called Mr. Smith, and he said no and that, of course, coincides with my own recollection.

Mr. Shibley: And do you have any knowledge, information or even ~~the~~ belief that anything which was said in the course of any discussion between the Premier and Mr. Cronyn would have led him to make that phone call?

Mr. Fleck: I have no knowledge of that -

Mr. Shibley: And no information --

Mr. Fleck: ~~But was~~ something that I know of, ~~and~~ again I would expect that I would if that were the case.

Mr. Shibley: And no information in that respect?

Mr. Fleck: No information in that respect.

Could I add that during the break I checked on this November 7th and November 9th. Mrs. Townsend who works for - at that time Brian Armstrong in the appointment section, after ~~some~~ looking ~~that~~ at the page that I mentioned that indicates the so-called requests for appointment form, ~~that~~ to the best of her recollection the appointment was initiated by the Premier's office, ~~and~~ she called, I think it is a Miss or Mrs. Smith, I am not sure, who is the one that she normally deals with, who, I believe, is Mr. Gathercole's secretary, ~~to~~ to try and confirm whether or not that took place, ~~and~~ to the best of Miss or Mrs. Smith's recollection, ~~is~~ the call was initiated from the Premier's office on the 7th. I am not positive of the 7th but virtually so. Certainly, I would say she feels confident that it was initiated from the Premier's office.

Mr. Shibley: On the 7th of November, at the instance of the Premier's office, the meeting of November 9th was set up?

Mr. Fleck: Correct.

Mr. Shibley: Is there any indication now as to who gave instructions within the Premier's office to arrange that conference?






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Mr. Fleck: I think Brian Armstrong gave the instruction to Mrs. Townsend. Now, whether I gave the instruction to Brian Armstrong, at this point I don't know. I do know, as I have mentioned to you that there was another appointment back to back, a term we have used, ~~to the same appointment~~

~~✓ 077~~  
(H-~~994~~ to follow)





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H-1000-1

(Mr. Fleck)

~~another appointment back to back, a term we have used, a~~ to  
that same appointment, ~~through~~ <sup>for</sup> a Mr. Andrew Frame, and that these  
were both matters related to the Hydro Task Force recommendations  
on Hydro being a Crown corporation ~~and~~ that was very much under  
discussion at that time, ~~and~~ <sup>and</sup> that, in all likelihood, ~~was the reason~~  
was the reason ~~for~~ for initiating it.

Mr. Shibley: Now, on the 9th, ~~where~~ <sup>therefore,</sup> Mr. Gather-  
cole had two meetings that day; is that correct?

Mr. Fleck: No, one, I ~~never~~ believe. Mr. Frame  
came in separately but it is related, ~~therefore~~.

Mr. Shibley: I see.

Mr. Fleck: It is related to the same subject.

Shibley:

Mr. Fleck: So you are imputing from that circum-  
stance that the meeting with Mr. Gathercole related to Task  
Force Hydro; is that correct?

Mr. Fleck: Yes.

Mr. Shibley: And in that respect also, you were  
present at the meeting and know that the topic of discussion  
was Task Force Hydro?

Mr. Fleck: That is correct.

Mr. Shibley: When the appointment was made on  
the 7th for the 9th - I am trying to relate now to your ~~daytime~~ <sup>day-time</sup>  
entries.

Mr. Fleck: ~~Yes~~ <sup>Yes</sup>.

Mr. Shibley: ~~And~~ I am thinking now in terms of  
the fact that on the 7th you referenced the meeting with Mr.  
Cronyn, "Ellis-Don" ← "

Mr. Fleck: ~~Yes~~ <sup>Yes</sup>.

Mr. Shibley: "Hydro building", and there  
appears on the 9th a "letter from Gathercole." ~~and~~ I must say





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3.30-3.35 p.m.  
E.M.

H-1000-2

(Mr. Shibley)

I'm now thinking parallel to Mr. Renwick - and I don't want to put thoughts in your mind of facts that didn't occur - but is the situation now that on the 7th the appointment is set up for Gathercole and that would be entered in your ~~day~~ diary?

Mr. Fleck: No, I would - where I enter an appointment in my ~~diary~~ <sup>diary</sup> that is the Premier's. I don't do this all the time; it is not something done by my secretary, ~~it~~ <sup>it</sup> is something I occasionally get around to doing and other times I don't. I would take it from a typewritten appointment sheet that I have ~~and~~ I would transpose it into this document and tie it in, of course, with appointments I might have of my own because I tended to make my time, of course, fit the Premier's needs. ~~If I was~~ <sup>if I was</sup> seeing someone ~~it would be~~ <sup>it would be</sup> a time that I wouldn't be required to be with the Premier. So that the timing of that would be that it would be written in; it could even be written in that morning. There is nothing particularly significant or habitual ~~about~~ <sup>about</sup> the way in which I would make an appointment entry into ~~the~~ <sup>the</sup> ~~document~~ <sup>document</sup>. There are many days when ~~this is nothing~~ <sup>this is nothing</sup>.

What.

Mr. Shibley: ~~What~~ I'm wondering about is this, Mr. ~~Mr~~ Fleck; on the 7th the appointment is arranged, you make an entry in your diary for the 9th on the 7th, you remember that you want a reminder to elicit, you say, a letter from Mr. Gathercole so you note that ahead on the 9th, and on the 7th you have memory of your earlier discussion with Mr. Cronyn and make your entry as to the Ellis-Don things at that time?

Mr. Fleck: Yes, but we don't know when I make ~~the~~ <sup>the</sup> the entry on the 9th about ~~the~~ <sup>the</sup> Gathercole letter.

Mr. Shibley: I see.

Mr. Fleck: There are two entries on the 9th; there



(Mr. Fleck)

H-1000-3

July 5/73  
3.30-3.35 p.m.  
E.M.

is an entry that has 10 a.m. GG; it has after it, 10.30 A. Frame,  
these are appointments. It, in addition, has and not contiguous  
to - in a different place on the page - ~~this~~ <sup>Hydro building</sup>  
letter GG under the heading that is ~~fixed~~ <sup>(printed)</sup> in the document,  
not written, "to be done today"..

Mr. Shibley: I see. I am almost concerned to  
embark upon my next topic of examination.

Mr. Fleck: I share it and I don't even know what  
it is!

Mr. Shibley: Quite coincidentally the next item  
is my brief. I have a note to myself, "When and by what means  
was the first occasion that anyone in the Premier's office  
had knowledge that ~~Maad Moog was dealing with hydro re the~~  
~~head office building~~". And I am almost sorry it is the next  
topic

(Tape 1001 follows)



July 5/73

3:35 - 3:40 pm

C.B.

(Mr. Shibley)

that Moog was dealing with Hydro re the Head office ~~new~~ building, ~~and~~ I'm almost sorry it is the next topic but I'm ~~not~~.

Mr. Fleck: ~~That~~ <sup>5:00 PM</sup> that is the next topic. WE know that he was aware, back in ~~the~~ <sup>5:00</sup> July press release which is well before this point in time; if you are referring to this point in time?

Mr. Shibley: Really, what I want to know is this; When I talk about dealing with, however, I'm not talking about making the contract. I'm talking about the first date, the first occasion, respecting which there was information known to people within the Premier's office that Mr. Moog was dealing with Hydro, in the sense of carrying on discussions with Hydro referable to its new head office building?

Mr. Fleck: As I've indicated, I haven't completed my inquiry into that particular subject. That was one I was going to try and cover at a later date.

Mr. Shibley: Now, then, in the same context I want to ask you to inform yourself not only as to ~~the~~ <sup>the</sup> first information in that respect, as it emanates from contacts with Mr. Moog or Canada Square, but also as it might have emanated from communications with Hydro, with Mr. Brooks, <sup>of</sup> the OISE Building, or with any commissioner of the Ontario Hydro Commission. Do you understand that?

Mr. Fleck: Yes, I do.

Mr. Shibley: And I take it you don't want to deal with those at this time but would rather inform yourself more precisely?

Mr. Fleck: Correct.





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3:35 - 3:40 pm

C.B.

Mr. Shibley: And when I say ~~that~~ anyone in the Premier's office, I ~~mean~~ intend that to encompass the Premier himself, yourself and Mr. Rowan.

Mr. Fleck: I presume it includes everybody in the Premier's office?

Mr. Shibley: Yes, everyone in the ~~Premier's~~ office. That's right. When I ~~say~~ say dealing, Mr. Fleck, it's part of our information here that communications were established in June of 1971 and carried forward from that time, so as to limit the period of your own inquiry you might find it helpful to direct your mind to ~~that~~.

Mr. Fleck: June ~~1971~~.

Mr. Shibley: That's ~~not~~ right. I don't know that it is necessary to confront you with these documents, Mr. Fleck. There have been in exhibit two reports by Mr. Cameron who is in the employ of Hydro: One dated July 16, 1971, which is exhibit 14, and the second dated July 26, 1971, which is exhibit 17. I think I will ask the ~~same~~.

Mr. Fleck: Maybe I should ~~ask~~.

Mr. Shibley: Yes ~~ask~~. Have you ever seen either of these reports?

Mr. Fleck: I can be positive that I've never seen exhibit 17.

Mr. Shibley: Yes.

Mr. Fleck: And I'm relatively sure I've ~~never~~ never seen exhibit 14, but in subsequent documents that I received after December of 1972 there were several, and this has material set up in a similar way to some of those, but I do not recognize it ~~as~~ one that I've seen. The other



H 1001 - 3

July 5/73

3:35 - 3:40 pm

C.B.

(Mr. Fleck)

one, because of what is on the front page, I'm sure I've never seen.

Mr. Shibley: All right. Now, then, do you know

Mr. Cameron?

Mr. Fleck: No, I do not.

Mr. Shibley: Have you any knowledge or information that anyone within the Premier's office or within government generally was, in any way, in communication with Mr. Cameron during the period July 16 to July 26, 1971?

H 1002 to follow





July 5th, 1973

3.40 - 3.45 pm

H 1082

AA

(~~Mr. Shibley~~)

~~an indication with Mr. Cameron during the period July 15~~  
~~to July 26, 1971~~

Mr. Fleck: I have no such knowledge.

Mr. Shibley: And no such information?

Mr. Fleck: And no such information.

Mr. Shibley: Have you any knowledge or information that the content of those two documents was in any way affected by any communication from anyone within the Premier's office or from anyone in government to Hydro, during that or any prior period?

Mr. Fleck: Again, I have no such knowledge and no such information.

Mr. Shibley: So that can we take it from your answers, Mr. Fleck, that to your knowledge and information nothing emanating out of the ~~the~~ Premier's office influenced either of those two reports by Mr. Cameron?

Mr. Fleck: That is correct. Now I do, and I will attempt to check as well, but I do have to qualify it in the sense that I ~~am~~ not in ~~my~~ my present position at that point in time.

Mr. Shibley: Yes.

Mr. Fleck: But in checking back through the files and with my information and my knowledge, that is correct.

~~12~~ Mr. Shibley: Yes, I am sorry. I should have made that clear also. According to your information, because you could have no knowledge of these things. I want similarly to present to ~~you~~ you exhibits 18 and 20, dated August 18, 1971, and October 21, 1971, ~~being~~ reports compiled by Mr. Dean of Ontario Hydro. Have you on any occasion seen ~~any~~ <sup>either</sup> of those two reports?

Mr. Fleck: Exhibit 18, I have never seen.



July 15th, 1973

3.40 - 3.45 pm

H 1002 - 2

AA

(Mr. Fleck)

Exhibit 20, again to the best of my knowledge, I have never seen either.

Mr. Shibley: Mr. Fleck, ~~have~~ have you any information that anyone within the office of the Premier, <sup>or</sup> on the part of government, had any influence respecting the content, or exercised any measure of contribution, ~~or~~ in any way ~~such~~

Mr. Fleck: I have no such information.

Mr. Shibley: ~~was~~ was instrumental in the preparation of those documents or any of ~~the~~ <sup>their</sup> contents.

Mr. Fleck: I have no such information.

Mr. Shibley: Now, then, ~~if~~ Mr. Fleck, I want to present to you three exhibits ~~of~~ exhibit 22, exhibit 23 and exhibit 26 ~~being~~ memoranda dated November 1, November 2 and November 25 of 1971.

Mr. Fleck: Exhibit 22 and exhibit 23, I have no recollection of ever having seen those. Exhibit 26, I do not believe so. Certainly again, nothing prior to ~~the~~ December of 1972, and I am hazy on that one because there is something ~~about~~.

Mr. Shibley: I am more concerned with the period as at that time. ~~at that time~~

Mr. Fleck: Definitely not at that time.

Mr. Shibley: I might alert you to this circumstance because I want to ask you questions about it. ~~In~~ In the memoranda <sup>of</sup> of November 1st and November 2nd, reference is made by the author to the need to get a number of builders, a few strong developers, to make proposals, whereas in the memorandum of November 25th, the notes on logistics, the recommendation rather is

H 1003 - 1 follows



July 5/73  
3:45 - 3:50 pm  
CA

H-1003-1

(Mr. Shibley)

~~the notes on legislative, the recommendation rather~~ to proceed with, I think, <sup>it</sup> I don't know that ~~has~~ has been specifically identified, but I think it is now clearly a matter of evidence ~~that~~ to proceed with Canada Square alone, providing that some part of the old plans could be salvaged. Having regard for that change of position within the month of November, 1971, Mr. Fleck, have you any information that anything emanated from the Premier's office within that period of time which may have affected the deliberations of the assistant general managers of Hydro referable to the recommendations contained in those documents?

Mr. Fleck: Yes. I have no such information.

Mr. Shibley: To the best of your information as the result of inquiries made by you, there was no such attempt to influence or affect the judgement of the people within Hydro as ~~has been~~ outlined in that memorandum; ~~is~~ that correct?

Mr. Fleck: That is correct.

Mr. Shibley: Now, Mr. Fleck, ~~the~~ exhibit 114, which is a covering letter to the Premier from Mr. Gathercole, provides the ancillary information in paragraph two;

"You will see from Mr. Candy's calculations that proceeding in the manner we propose would provide an annual saving to Hydro estimated by Mr. Candy at \$2,460,907 compared with the situation that would prevail operating in rented and scattered premises."

Do you see that?

Mr. Fleck: Yes.

Mr. Shibley: Subsequently the Premier reported to the House on November 21, 1972, and I am now looking at the Hansard report of this exchange, and I'll read it for everyone's information:

"Mr. R.F. Nixon: ...Can the Premier tell the House if

in fact he did approve the decision taken by Ontario Hydro to put <sup>up</sup> ~~in~~ this building on a leaseback basis, in a situation somewhat similar to that we've entered into with the Workmen's Compensation Board and Fidinam?





July 27/13  
3:45 = 3:50 pm  
CA

H-1003-2

66 Hon. Mr. Davis: Mr. Speaker, the question of the new facility for Hydro really was never dealt with by cabinet; it is not a matter of cabinet decision. The chairman of Hydro suggested to me some months ago that they <sup>W</sup>ished to proceed with their new facility - it has been on the drawing boards or under consideration, I believe, since 1967 or 1968. I indicated at that time that in my ~~my~~ view, whatever was done, should not influence the capital situation. I understand that Hydro have gone ahead on the basis that it does not require them to borrow, and as a result it has not affected the capital situation."

Now in addition, I believe, that the Premier also reported to the House, referable to the contract, that this transaction ~~was~~ <sup>would</sup> effect a saving of the \$2,400,000 referenced by Mr. Gathercole. It is in the portion above it and I perhaps should have read it. This again in answer to a question by Mr. Nixon.

~~is~~ ~~"Hon. Mr. Davis: Mr. Speaker, the question of the new facility for Hydro really was never dealt with by cabinet; it is not a matter of cabinet decision. The chairman of Hydro suggested to me some months ago that they wished to proceed with their new facility - it has been on the drawing boards or under consideration, I believe, since 1967 or 1968. I indicated at that time that in my view, whatever was done, should not influence the capital situation. I understand that Hydro have gone ahead on the basis that it does not require them to borrow, and as a result it has not affected the capital situation."~~  
As I understand, the main business of the new office for Hydro, I think it will be to...

H-1004-1 follows



July 5, 1973  
3.50-3.55p.m.  
B.A.

A-1004-1

(Mr. Shibley)

"Hon. Mr. Davis: I don't think there would be any change in this. As I understand the mathematics of the new office for Hydro, I think it will lead to a reduction in their costs of about \$2.4 million a year. The question of the development of that particular facility dates back many years: it is not in conflict whatsoever with the Task Force Hydro report. There would be no purpose served in saying, 'Don't go ahead with your new facility because of rate increases' if the two are not related. "

Just starting with that part of it, do I take it that Premier Davis' statement to the House of an estimated saving of \$2.4 million emanates from the information provided to him by Mr. Gathercole's letter of November 16?

Mr. Fleck: I ~~am~~ would presume so, yes.

Mr. Shibley: Yes. So that the Premier had the letter and the accompanying report as ~~at~~ the time he was reporting to the House on November 21, 1972. Is that correct?

Mr. Fleck: Yes.

Mr. Shibley: Now, then - and I take it he was relying upon the accuracy of the figure provided to him by Mr. Gathercole in this letter when he made that statement in the House.

Mr. Fleck: I presume so, yes.

Mr. Shibley: Well, is there any other possibility?

Mr. Fleck: No. Not that I am aware of. I mean, this would be the most recent communication that we would have relative to this matter and I am sure it would be the one used.

Mr. Shibley: I have asked you to produce the Premier's original copy of this document.

Mr. Fleck: I have a note of that request.

Mr. Shibley: Now then, just going on with the excerpt that I have read to you from Hansard, it goes on to say ~~that~~ that the question of the new facility for Hydro really was never dealt with by cabinet. I don't know whether ~~you~~ ask you whether it was



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B.A.

(Mr. Shibley)

never a cabinet matter offends the rule of cabinet secrecy in the sense that by asking enough negative questions you can usually affirm a fact.

Mr. Bullbrook: It can't in my respectful view, in view of the fact that the Premier has told the Legislature it wasn't dealt with by cabinet. His response wasn't that that's a matter of cabinet information.

Mr. Shibley: All right, then, Mr. Fleck, do you have any knowledge or information which would be in contradiction to that statement?

Mr. Fleck: No, I have no such knowledge or information.

Mr. Shibley: It goes on to say, "it is not a matter of cabinet decision". Dealing with that ~~statement~~ <sup>and so on</sup>.

Mr. Fleck: That's correct.

Mr. Shibley: ~~and~~ for a moment, Mr. Fleck. You are familiar with the business of cabinet generally, you have responsibilities in that area. Is that correct?

Mr. Fleck: Yes.

Mr. Shibley: And do I take it that over the tenure of your holding of your present office, matters pertaining to Hydro ~~has~~ have not been the subject of cabinet decision making?

Mr. Fleck: I'm sorry, I can't say that, no. I can say that the subject of building a Hydro building has not been the subject of cabinet consideration.

Mr. Shibley: Thank you, that's good enough. And no aspect of the Hydro building, to your knowledge, was treated as the subject matter of a cabinet decision.

Mr. Fleck: That is correct.

Mr. Shibley: Then it goes on: "The chairman of Hydro suggested to me some months ago that they wished to proceed with their new facilities." I am particularly interested in that observation. What time is the Premier referring to when he says that "the chairman suggested to me some months ago"? And to assist





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B.A.

(Mr. Shibley)

you, this would be relative to November 21, 1972.

Mr. Fleck: It is not my ~~intention~~. I have not asked that specific question so I am surmising, therefore, on what the ~~R~~ Premier meant at that time, but my recollection of that is that he would be referring to the February session with Mr. Gathercole. In other words, it could well be, using terminology that he would use, "Some months\* ago" could extend ~~to~~ that period of time.

Mr. Bullbrook: Is this the Pickering discussion?

Mr. Fleck: Yes, ~~the~~ Pickering is in February of that year.

Mr. Shibley: Yes, I know that.

Mr. Fleck: Time tends to compress itself sometimes.

~~Mr. Shibley: Mr. Fleck, I would ask~~

(Tape H-1005 follows)



July 5/73  
3.55 to 4.00 pm  
DT

(Mr. Fleck)

~~time tends to compress itself sometimes and --~~

Mr. Shibley: Well, Mr. Fleck, I had asked you to better inform yourself --

Mr. Fleck: I will so do.

Mr. Shibley: -- because I think it's important to know in light of the --

Mr. Fleck: In fact, I have a note already to check that point.

Mr. Shibley: All right, fine. Now, then, the response or the reply of the Premier goes on: "I indicated at that time that in my view, whatever was done, should not ~~and~~ influence the capital situation." Do you have any knowledge or information <sup>to</sup> as to what was meant by that portion of the statement?

Mr. Fleck: I am sure that what was meant, and again I have to infer, I am sure that what was meant was that normally the province guarantees the loans of Hydro. I mentioned this yesterday in my testimony when you were asking about some comments of the Treasurer at that time had made to Mr. Gathercole. The province normally guarantees the borrowings or the debt obligations, the bonds, of Hydro. If Hydro were to build a building themselves and if it were going to cost say \$40 million to build that building, they would ~~have to~~ of course <sup>have to</sup> borrow the money to do that, so therefore they would be increasing their borrowings by \$40 million more than their borrowings would have been otherwise, I presume. As I understand this particular transaction with the sale and leaseback, they do not have to increase their borrowings, and the fact that they have rental obligations, the fact that they have to <sup>pay</sup> ~~pay~~ rental payments over a period of 30 years does not appear on their balance sheet as such, as a liability on the ~~one~~ one side of the balance sheet, whereas if they had to borrow money through bonds or a mortgage or some other way, that would appear as a liability in their balance sheet and would affect their



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3.55 to 4.00 pm  
DT

(Mr. Fleck)

capital situation.

Mr. Shibley: When you say their capital situation --

Mr. Fleck: Hydro's.

Mr. Shibley: Hydro's capital.

Mr. Fleck: Now, I don't know, and perhaps Mr.

<sup>a</sup>  
Allen could help me here as an ex-Treasurer of the province, I am not sure whether -- I don't think that appears on the province's balance sheet either, but the province does in fact guarantee the borrowings and therefore it does affect the capability of the province to go to the financial markets, in other words to borrow, <sup>in</sup> the sense that what is borrowed by Hydro, if the province has to guarantee it, is almost the same as far as the financial community is concerned, as the province borrowing.

Mr. Shibley: What I want to know now, Mr. Fleck, is when the Premier made this statement in the House, was he directing comment to the capital situation of Hydro or the capital situation of the province?

Mr. Fleck: Well, really I think both. You see, it affects both, because there is one notion that a particular governmental entity can only borrow so much money on the capital markets ~~and~~ without affecting its credit ratings, using the terminology that you might have a ~~good~~ so-called triple-A rating. It means that you enjoy a good rate of interest - I ~~mean~~ mean low rate of interest on your borrowings. If your rating is, say, a double-A rating, you would pay a somewhat higher rate of interest for your borrowings, so it's in the province's best interest, to have a good credit rating, and Ontario does have a very good credit rating, and to borrow at the low rate of interest.

Now, the financial community, by some process, develops a feeling about how much it is appropriate for a particular governmental entity to borrow in any period of time, because the notion is that eventually they are going to have to pay it back, and it's with this in mind that you determine what you think you can borrow in a given period of time. Now, if Hydro is borrowing,





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3.55 to 4.00 pm  
DT

(Mr. Fleck)

then that is going to take out of the same pool of available funds ~~that~~ <sup>that</sup> the province will be able to borrow ~~from~~.

Mr. Shibley: I appreciate that but I am still --

Mr. Fleck: ~~So it is~~ <sup>that is</sup> ~~that~~ both ~~has~~ <sup>have</sup> their capital situation

affected.

Mr. Shibley: All right.

Mr. Fleck: But we are more concerned, I should say,

we are more concerned about the effect that it will have on the province.

Mr. Shibley: You are more concerned, but when

Premier Davis made this statement in the House, was his concern in respect of this statement directed to Hydro's borrowing power?

Mr. Fleck: He would be concerned--My guess; let me ask and I'll try and follow up--my guess is it is related to the province's <sup>borrowing</sup> ~~borrowing~~ power.

Mr. Shibley: You earlier said both.

Mr. Fleck: Well, it is both, because if you do the one, it is going to affect the other. The financial community considers--

Mr. Shibley: This may seem trite, but I have a reason for putting these questions to you, Mr. Fleck, because Hydro has stressed before this committee that the reason it did a lease-purchase transaction was that it would not ~~affect~~ <sup>affect</sup> its, Hydro's, borrowing power and beyond that--

Mr. Fleck: But their borrowing power is also the province's borrowing power.

Mr. Shibley: Well, we will see about that. At the moment --



July 5/73

4 - 4:05 pm

C.B.

(Mr. Shibley)

~~Premier DAVIS made his statement in the House, was his~~  
~~concern in respect of this statement directed to Hydro's~~  
~~borrowing power?~~

~~Mr. Fleck: Yes; and let me ask you and I'll~~  
~~try and follow up. Mr. Shibley, related to the province's~~  
~~borrowing power?~~

~~Mr. Shibley: Yes, I have a reasonable passing~~  
~~these questions to you, Mr. Fleck, because Hydro has stressed~~  
~~before this committee that the reason it did a lease-~~  
~~purchase transaction was that~~

~~Mr. Fleck: Their borrowing power is also~~  
~~the province's borrowing power.~~

~~Mr. Shibley: Well, now about that in a~~  
~~moment.~~

Mr. Fleck: Okay.

Mr. Shibley: That has been Hydro's position  
 before this committee; that the reason it did a lease-  
 purchase transaction was that they wouldn't have to - it  
 would not affect their borrowing power.

Mr. Fleck: Correct.

Mr. Shibley: Their normal source of funds.  
 I put it to you, as someone experienced in matters financial,  
 that any financial institution, in evaluating the amount of  
 credit that should be extended to Ontario Hydro, that if  
 they were to make that evaluation today, that they would  
 take into account the obligations under the lease-purchase  
 transactions with Canada Square?

Mr. Fleck: Let me say they should.

Mr. Shibley: Yes.

Mr. Fleck: But they don't necessarily do so,  
 and if they do, they do not certainly do it to the same  
 extent that they would do it if it was a debt obligation.



July 5/73

4 - 4:05 pm

C.B.

(Mr. Fleck)

What we are getting into is some very basic financial theory, if you want. ~~and~~ It is a fact that the popularity of sale and leaseback, a good part of it, has been the fact that for some reason the financial community ~~and~~ does not tend to so-call capitalize the lease payments, ~~and~~ the rental payments on a lease, whereas, of course, if it is a mortgage or if it is a debt, it's there. And when they compute all their ~~new~~ ratios and so on, it's there.

It isn't ~~necessarily~~ necessarily rational in my view; this is one <sup>of</sup> the things you try and teach in a finance course. But it is the case, it does happen.

Mr. Shibley: Mr. Fleck, I want to be clear on this because you have expertise in this field.

Mr. Fleck: I had, I haven't ~~talked~~ <sup>thought</sup> for a ~~while~~ <sup>while</sup>.

Mr. Shibley: Yes. I want to understand whether, in terms of its future borrowings, when financial institutions are approached by Hydro, would you expect that the long-term obligations under this lease of Hydro's would not be included in evaluation of the extent of credit, if you like, to be extended to Hydro?

Mr. Fleck: I think it is possible, as financial markets become more sophisticated, that it would in some way be taken into account. But I am still very definitely of the ~~opinion~~ opinion that in no way would it have anywhere near the weight of a debt obligation. There is an important difference, ~~and~~ with some, and I can't speak for all, with some financial institutions they would not





July 5/73

4 - 4:05 pm

C.B.

(Mr. Fleck)

take it ~~into~~ <sup>(into)</sup> account at all. In other words, they would calculate their ratios based on the balance sheet information.

Now, if I can just take an example to show it isn't quite as simple as I may be trying to make it out. If you have an employee with a five-year contract that you are going to pay him so much a year for five years, you do not capitalize that on your balance sheet, but it is very definitely a financial obligation of the firm if you have that contract.

There are many other contracts one can think of that have ~~no~~ a time dimension to them. It does mean one is going to have to pay out money in the future. Many of these are not capitalized.

Mr. Shibley: I know they are not capitalized.

Mr. Fleck: And they are not taken into account in granting borrowings, strangely enough. It isn't rational but it is the case.


Mr. Shibley: That is your understanding of the situation?

Mr. Allan: Mr. Chairman, I might make this one comment.

Mr. Shibley: We are going to listen very carefully.

Mr. Chairman: To the best of your recollection, Mr. Allan.

Mr. Allan: No, but no mention has ~~made~~ been made ~~about~~ the availability of funds. This is a very important consideration in financing in this ~~field~~ <sup>scale</sup>. I think that ~~Hydro would be concerned...~~





July 5th, 1973

4.05 - 4.10 pm

H 1007 - 1

AA

(Mr. Allan)

~~2. Mr. Allan: I think that Hydro would be concerned and the government would be concerned about the availability of funds.~~  
I think that Hydro would be concerned and the government would be concerned about the availability of funds.

Mr. Bullbrook: Don't we have evidence that there were funds available?

Mr. Renwick: I take that to mean the ability of the capital market to absorb government or institutional borrowings from government.

Mr. Allan: Yes.

Mr. Deans: Can I ask another naive question?

Mr. Shibley: I might remind Mr. Allan that funds were being offered to Safrance, according to the evidence, at that time and ~~that~~ at a competitive rate, so that in terms of the availability of funds, I don't think ~~any~~.

Mr. Allan: I think, though, if you were to question some of the investment people, you will find that Hydro will probably have a very definite programme <sup>of</sup> going to the market.

Mr. Deans: I just seek for my own benefit. I don't really understand all the ramifications of this, <sup>but</sup> doesn't this mean that Hydro are able to borrow beyond or to be indebted beyond that which they would normally be permitted by the capital market, or by the money markets? Doesn't it simply allow Hydro to go further into debt than they would normally be allowed by entering into this kind of an ~~arrangement~~ arrangement?

Mr. McCallum: Allowed by whom?

Mr. Deans: Allowed by the money market, Allowed by their credit rating, if you ~~would~~ wish.

Mr. Bullbrook: Allowed by the Power Commission Act too.

Mr. Deans: Or by the Act, yes.

Mr. Fleck: It would allow them to ~~have~~ obtain



July 5th, 1973

4.05 - 4.10 pm

H 1007 - 2

AA

(Mr. Fleck)

more cash under better terms than might be the case otherwise.

Mr. Deans: No, that's not what I am asking you.

What I am asking is, doesn't this kind of an arrangement allow Hydro to carry a much greater ~~debt~~<sup>debt</sup> load, including that which they would have to pay by way of the contract, and that which they would have to pay by way of direct borrowing, than they would normally be allowed to carry, taking into account the Province of Ontario having to back it up, than that which they would be allowed to carry had they to go to the market and borrow all the money themselves? Is that clear, the question on that?

Mr. Fleck: It is clear but not simple. That is the problem.

Mr. Deans: Well I have never said it was ~~simple~~ simple.

Mr. Fleck: In that I don't know that there is a specific dollar figure that you can determine and say that is the amount of debt that an institution should carry, and then this allows you to borrow a little more. No. What it does allow you to do, perhaps, <sup>it</sup> allows you to maintain your ~~credit~~ credit rating because you can borrow if you are willing to go to a lower credit rating sometimes, if there is the availability. ~~As Mr. Allan has suggested~~ As Mr. Allan has suggested, there are again other ~~dimensions~~ dimensions of this, but you can borrow more at a given credit rating, let's say a triple-A rating, a high-quality bond rating. You would be able to, I would say, in effect, borrow more, because in my mind a lease transaction sometimes is a financial transaction that is not that different <sup>from</sup> ~~in~~ borrowing in its ultimate result, so that would be the case. You can borrow more at a given





July 5th, 1973

4.05 - 4.10 p.m.

H 1007 - 3

AA

(Mr. Fleck)

rate of interest, let's say. What your limit is, is something that is pretty hard to control.

Mr. Deans: I don't pretend to understand the limits, but let me try to lay to rest what Mr. Allan raised. Is it not conceivable that the money that was made available, ~~was made available~~ one of the reasons why it was made available was because it was being used to build a building, the prime tenant for which was, in effect, the Province of Ontario, or Hydro, in this instance? Because there was a long-term arrangement and the money was, in fact, ~~guaranteed~~ guaranteed, that that was the reason why the money, or at least part of the reason why the money was available at a preferred interest rate.

Mr. Fleck: I think that who the tenant is would be an important factor in the builder obtaining his financing, sure.

Mr. Deans: Am I right then in assuming that Hydro ~~was~~ <sup>are</sup> now able to borrow \$40 million, \$50 million more today at a prime rate than they would have been able to borrow had they ~~borrowed~~ borrowed that money to build the building themselves?

Mr. Fleck: Well, that's a little tougher because the two situations aren't exactly comparable.

Mr. Bullbrook: That's a judgement the Treasurer of Ontario would make, really, in the context of the total borrowings of the Province of Ontario and the ~~market~~ market availability at the time. ~~But I~~ Would you permit me some questions?

Mr. Chairman: ~~Answers~~ Yes. I thought we would just take a recess here. Do you want to ~~and~~ . . .

Mr. Bullbrook: I would just like to clarify something in my mind if I could. Recognizing the position that is taken here and I want to understand the Premier's response



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H 1007 - 4

AA

(Mr. Bullbrook)

here, ~~As~~ I understand it really, the additional borrowing  
of \$45 <sup>million</sup> - I want to clarify one thing too, because Mr. McCallum  
showed some discomforture, I think, during the course ~~and~~ . .

Mr. McCallum: It is the Chair. *mm*

~~Mr. Bullbrook: No comment on this ma~~

~~here too. I am referring to~~

H 1008 - 1 follows



H-1008-1

(Mr. Bullbrook)

~~showed some discomfort.~~

~~Mr. Fleck:~~

~~Mr. MacArthur: It is the Chair.~~

Mr. Bullbrook: No, I want him to help me here too. In referring to the Power Commission Act I heard peripherally the comment that there is no limit, and I realize that there is no limit by statute, but there is an obligation to seek out the advice and direction under that statute of the government of Ontario, and that is one essential difference that I think Mr. Renwick made some weeks ago in connection with this procedure. I don't want to carry that forward to its illogical absurdity, but if you ~~were~~ went, for example, in the capitalizing of your transmission facilities, and the development of your ~~own~~ nuclear programme on a lease-purchase basis, of course, we circumvent the entire purpose of the Power Commission Act, okay? I want to ask you this, as a person versed in this, because I am missing this point as a layman; we have evidence that the debt picture of Hydro is about \$4½ billion. What is the debt picture of the Province of Ontario, aside from ~~Hydro~~ <sup>Hydro</sup>?

Mr. Fleck: I'm sorry I haven't informed myself on ~~this~~ <sup>this</sup> these matters before ~~coming~~.

Mr. Bullbrook: Mr. Fleck, you must have some idea.

Mr. Fleck: I don't. ~~It is \$3 billion?~~

Mr. Bullbrook: Would it be ~~\$3 billion?~~

Mr. Fleck: I'm ~~sure~~ sorry, I'd be sheer speculation.

Mr. Bullbrook: The point I am making is, and I tried to make this some time ago, I find it really difficult to believe that both Hydro and the government regarded this lease-purchase remedy to their capital situation in the context of their total borrowings, in the context, Mr. Fleck, of Hydro's borrowings alone, it is one per cent. Now your evidence

Mr. Fleck: You mean one per cent of the total borrowings over the last umpteenth years?

Mr. Bullbrook: Well that is fine. That is fine. I agree with that. But surely the financial houses aren't looking just on a calendar basis? Right? If they do so then the whole concept of public borrowing is thrown awry. When you are looking





H-1008-2

(Mr. Bullbrook)

at whether you should lend money to a responsible <sup>borrower</sup> ~~body~~, you don't look at just how much he borrowed this year, but you look at how much he owes. Right?

Mr. Fleck: It is certainly <sup>rather better as</sup> ~~not exactly what~~ I would look at it, yes

Mr. Bullbrook: Certainly, it would have to be. I am just saying, as I attempted to bring out before, and you have got to help me here.

Mr. Chairman: We are getting a little off topic.

Mr. Bullbrook: No, we are not.

Mr. Chairman: ~~Mr~~ Well, we are entering into a philosophical discussion almost, on borrowing here. Mr. Allan might want to put his views in too, which I think are contrary.

Mr. Bullbrook: Well then I'll try to make it <sup>germane</sup> ~~to you~~.

Mr. Chairman: If you can ask ~~it~~ it by way of question rather than...

Mr. Bullbrook: We have had many, many documents exhibited before us. We now have the response of the Premier of the Province of Ontario ~~xxxxxxx~~ that one of the considerations supporting the lease-purchase arrangement was its benefit in connection with the impact on borrowings, and from this witness, not just borrowings of the Hydro-Electric Power Commission, but the total borrowings, Mr. Chairman, of the Province of Ontario. I, as one member, want to find out, in the context of Mr. Fleck's knowledge, if it is in point of fact correct that one per cent <sup>would be</sup> ~~that was~~ such a significant thing and premising that Hydro's borrowing is only part of the total borrowings of the Province of Ontario. I would think we are talking about an injection of capital request of something in the nature of one-half of one per cent of the total borrowings of the Province of Ontario. I really find it difficult to believe that the financial people regarded this as such a significant thing in making their decision.

Mr. Fleck: I'll pass on the last part of that. But in terms of ~~its~~ its significance, as I understand it, you would be talking about a sum in excess of \$40 million.



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CA

H-1008-3

Mr. Bullbrook: Yes.

Mr. Fleck: As I remember the current borrowings each year, they are roughly in the order of \$500 million.

Mr. Bullbrook: ~~XXXXXX~~ Fine.

Mr. Fleck: So you are talking about something that is closer to 8 per cent, than something that is half of one per cent in terms of the drawings on the market. And secondly, the minute one starts to use the basis that any one item is only one half of one per cent, of one percent, or even eight per cent, and therefore you don't worry about it, I'll tell you, that's when you get into trouble.

Mr. Chairman: You're in trouble.

Mr. Shibley: I think, Mr. Fleck, and Mr. Bullbrook, if I may help.

Mr. Bullbrook: Surely.

Mr. Shibley: The chairman, Mr. Gathercole, has said that "most definitely" was his answer, "most definitely," Hydro would have built its own building with its own funds but for the ~~fact~~ effect upon its normal borrowing sources of an additional borrowing of \$40 million. So, Mr. Chairman, with all due respect, I think Mr. Bullbrook's line of questioning was cogent to a material issue, because if that...

Mr. Chairman: Mr. Shibley, what I was objecting to was the fact of a <sup>on it</sup> discussion rather than a line of questioning.

Mr. Fleck: I think ~~the questions raised~~ I've tried to answer the questions raised by Mr. Bullbrook.

~~Mr. Bullbrook: I am not going to answer the questions raised by Mr. Fleck.~~

~~H-1009 - follows~~



July 5, 1973

4.15-4.20p.m.

E.A.

H-1009-1

~~(Mr. Chairman)~~

~~discussion on it rather than a line of questioning.~~

~~Mr. Fleck: I am not going to answer the question asked of me.~~

Mr. Shibley: Yes, the only question I was putting to you, Mr. Fleck, ~~is~~ really was this, not what percentage of the total but in terms of the future <sup>ability</sup> ~~aid~~ of Hydro to borrow, would not financial institutions, as a matter of course, take into account the rental payment obligations under the 30-year lease in the same manner as they would take into account amortized mortgage payments under a mortgage?

Mr. Fleck: No

Mr. Shibley: You say not, even though that's irrational.

Mr. Fleck: That is correct.

Mr. Shibley: Have you had any recent experience ~~of~~ with the approach of ~~the~~

Mr. Fleck: Now, my ~~own~~ expertise is being questioned.

Mr. Shibley: Have you had any recent experience with financial houses of note to this ~~same~~ approach?

Mr. Fleck: No. I would say not in the last year and a half. I still do know people that are in the financial business and I still do read the odd item, but I have not had contact

Mr. Shibley: All right. I wasn't questioning your expertise.

Mr. Fleck: No, no, I'm sorry.

Mr. Shibley: It was just that I wanted to ~~say~~

Mr. Fleck: ~~When~~ you used the words "the same" in your statement, ~~was~~ you get it back from Hansard, and that's why I have no problem equivocally saying "no". Is that equivocally or unequivocally?

Mr. Shibley: Unequivocally.





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B.A.

Mr. Fleck: Unequivocally, saying no.

Mr. Shibley: All right, then maybe I put the question ~~and~~

Mr. Fleck: Yes, if you want to modify it then I will ~~say~~.  
then I ~~am~~ start to get into "maybe's" .

Mr. Shibley: Well, we are looking for probables.

Would a financial institution probably take into account the obligations of Hydro under a lease-purchase transaction if approached ~~for~~, in its overall evaluation, of the line of credit to be extended.

Mr. Fleck: I will say this. If they were a good house, in my opinion, they should take it into account to some degree but, to the best of my knowledge, it would never have the same weight, or even close to the same weight, as a debt obligation, even though that is irrational.

Mr. Chairman: Gentlemen, I would like to call a recess for the Chairman's sake if for nobody else's.

The committee took recess for 10 minutes.

(Tape H-1010 follows)



July 5, 1973

4.35-4.40p.m

B.A.

H-1010-1

The committee resumed at 4:35p.m.

The Chairman called the meeting to order.

Mr. Shibley: Mr. Fleck, earlier in your evidence you ~~was~~ have made a number of references to the fact that in December you received various material which assisted you to make a further ~~was~~ study and give further consideration to the letting of the Hydro contract to ~~the~~ Canada Square; is that correct?

Mr. Fleck: That is correct.

Mr. Shibley: And would you please tell the members of the committee what that documentation was?

Mr. Fleck: Well, I have several pieces, but maybe I could talk to the basic documentation. The basic document I was working to was a memo of July 19, 1972.

Mr. Shibley: That would be the advice to the commission which is an exhibit before the committee as Exhibit No. ~~Ex~~ 84, dated July 19, 1972, and styled "Advice of Commission Decision". Is that correct?

Mr. Fleck: That is correct.

Mr. Shibley: ~~And~~ I know that you are presently working to a clean copy <sup>but</sup> ~~that~~ the copy that you showed me earlier in your office was one with annotations, unfortunately you just can't locate it, but ~~we~~ will locate it hereafter. Now that was a document you received when?

Mr. Fleck: Some time in December.

Mr. Shibley: Yes.

Mr. Fleck: ~~And~~ I am not sure whether I received it on the first meeting because there is more than one time that we <sup>got</sup> ~~met~~ together.

Mr. Shibley: Now, when you talk about meetings you mean Mr. Candy?

Mr. Fleck: Yes. To the best of my recollection it is the fifth, I believe. I think it was Mr. Gathercole's note of



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B.A.

H-1010-2

(Mr. Fleck)

the 4th ~~2~~ with the draft reply to the questions, and in that note he mentions that Ken Candy will get in touch with me. ~~and~~ I believe that it is the next day. I do not have anything definite that I can ~~refer to~~ refer to to pin that one down.

Mr. Shibley: Yes. Now, you received that document on the occasion of a meeting with Candy on December 5th, 1972?

Mr. Fleck: I am not sure -- excuse me. The document that I am sure of going over at that time with Mr. Candy is the draft, or the draft reply.

Mr. Shibley: I see.

Mr. Fleck: ~~And~~ I would think that at that same meeting I received ~~this~~ this document, but it could be that it would be at the second; but I think it would be at ~~the second~~.

(Tape H-1011 follows)







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DT

(Mr. Fleck)

~~at that same meeting I received the~~  
~~by the way, I am not sure if the second one is~~  
~~was about this one.~~

Mr. Shibley: So when you say draft reply, you mean that the answers which were ~~forwarded~~

Mr. Fleck: To Mr. Nixon's question.

Mr. Shibley: ~~by~~ by Hydro

Mr. Fleck: Correct.

Mr. Shibley: ~~to~~ to the questions posed ~~by~~ <sup>by</sup> Mr. Nixon?

Mr. Fleck: That is correct. This is the letter from Mr. Gathercole to myself, I believe, dated December 4th.

Mr. Shibley: Yes.

Mr. Fleck: In it he mentions that Mr. Candy has a draft and, as I remember it, <sup>it sounds</sup> that Mr. Candy would be getting in touch with me or something of that sort.

Mr. Shibley: Just to make it clear, Mr. Fleck, for future reference, the answers tabled in the House were not simply a restatement only of the answers provided by Hydro which are part of exhibit 120 before this committee?

Mr. Fleck: That is correct.

Mr. Shibley: In fact the answers were a composite of information provided by, I understand, three sources. Is that correct?

Mr. Fleck: I know that Mr. Snow's department was one, and I know that ~~my~~ maybe if ~~I~~ I could see that exhibit, that would be the best and I can be sure.

Mr. Shibley: All right.

Mr. Fleck: That will be the exhibit that has the draft agreement, a great big thick thing.

Mr. Shibley: It is in front of you. Right there, you have just been handed it.

Mr. Fleck: What I have here is the draft reply. What I was asking for to make the point that you say is the actual reply that was tabled which is a very large document.

Mr. Shibley: You are getting it now.



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(Mr. Shibley)

That document, members of the committee, is part of exhibit 2, the bound volume which incorporates the contract.

Mr. Fleck: That is correct.

Mr. Shibley: ~~As~~ As I say, just to avoid any suggested contradiction in your evidence in the future, Mr. Fleck, the answers that were tabled in the House were compiled from material provided by three sources, one being the answers proposed by Hydro which is ~~a~~ exhibit 120, dated December 4, 1972. Is that correct?

Mr. Fleck: Yes, ~~except~~ except as I remember it, the answers ~~a~~ that are in the final one are a final version of which this is the draft. They are not identical.

Mr. Shibley: I see. All right.

Mr. Fleck: So ~~that~~ this is the draft, then there is a subsequent final draft or set prepared by Hydro. That makes up the first part of the answer.

Mr. Shibley: Yes.

Mr. Fleck: And it's dated December 13 because ~~that's~~ that's Hydro typing December 13 whereas of course the draft copy had December 4 on it.

Mr. Shibley: Yes.

Mr. Fleck: So the first part of the answer, I take is pages 1 through 7, I think. Pages 1 through 7, I am sure, would be the actual material sent from Hydro.

Mr. Shibley: I see, ~~so that~~ so that those would be a refinement of the drafts submitted on December 4 but still represent Hydro's contribution in a refined form.

Mr. Fleck: Correct.

Mr. Shibley: Now just while we are at it, maybe we can complete that document. ~~The~~ The next portion was provided by whom?

Mr. Fleck: The next ~~portion~~ portion I would presume is provided by the cabinet office because it does not look as if this has been submitted by a ministry as such but I am sure they would have elicited that information from the particular



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(MR. Fleck)

ministry in question, ~~and~~ I would surmise that the ministry in question there would be Consumer and Commercial ~~Relations~~ <sup>Relations</sup> because that's where the company's branch is and they would determine the information as to who are the directors, etc., the question that was answered.

Mr. Shibley: And then the final portion which is on the letterhead of the Minister of Government Services ~~and~~

Mr. Fleck: Yes, those are questions that relate to leases that the government or its agencies might have and those are provided by Government Services because again ~~the~~ ~~they~~ they are in charge of or look after all leases which the government has.

Mr. Shibley: Mr. Fleck, just before we leave that last document, there is one final page, page 10, who provided that answer?

Mr. Fleck: That would be provided by the cabinet office.

Mr. Shibley: I see.

(H-1012 to follow)





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4.45 - 4.50 pm

H 1012 - 1

AA

~~(Mr. Shibley)~~

~~provided that answer~~

~~Mr. Fleck: That would be provided by the cabinet office.~~

Mr. Chairman: I am looking at the answer.

Mr. Shibley: Now, then, I am sure it may occur to some members of this committee whether the circumstance of your seeking out information from the Ministry of Government Services, for purposes of answers to the questions, might, in some way, be tied in, or related to the notation which you instructed to be made on the copy of the November 16 letter from Mr. Gathercole ~~and~~

Mr. Fleck: No, May 16.

Mr. Shibley: ~~and~~ May 16, 1972, letter from Mr. Gathercole to the ~~the~~ Premier.

Mr. Fleck: No, ~~this~~ This would automatically be done by people in the cabinet office, of which they are not ~~and~~ they are not a part of my operation ~~and~~ they would break the question down into its component parts and seek the information from the appropriate ministry, ~~and~~ the appropriate ministry for questions about leases of government property would be Government Services.

Mr. Shibley: I would like to ask you also, while I am on the matter of Ministry of Government Services making a contribution and the letter of May 16, I believe one or more committee ~~and~~ members interested himself in the question as to whether your notation, even though you might have considered it inappropriate, might be an indication that, in fact, it was decided at that time that the Ministry of Public Services should have been sought out to evaluate and make some contribution to the effecting of this contract? ~~And in that contract,~~ <sup>context</sup> reference was made, I believe, by Mr. Bullbrook, to the fact



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H 1012 - 2

AA

(Mr. Shibley)

that they were participants in the OISE building.

Mr. Fleck: Yes.

Mr. Shibley: Now, can you tell the committee the circumstances or the reason why, in the OISE building, it was considered necessary to involve the Ministry of Government Services so that we might compare those circumstances with the subject contract?

Mr. Fleck: Well, I <sup>have</sup> ~~had~~ not had the ~~chance~~ opportunity to do ~~what~~ what I would call a complete job of research in this case, but I have some skeletal information on that.

As I understand the situation, OISE was a fairly new ~~entity~~ - I don't know what it is called; whether it is a corporation ~~entity~~, I guess, created. ~~It~~ It had not been in existence for a very long period of time at the time when this particular ~~was~~ building, the OISE building, was being constructed. It was assumed by all concerned that the contract, when it was entered into for this particular building, that it would be with the government. There would be a government guarantee on the lease, if I can put it that way. ~~And~~ That was the understanding of the various people involved in that.

It then turned out, when they were attempting to do this, and this is after they have selected the ~~one~~ and as I understand they had ten companies initially make proposals. It came down to five. It came down to two and they selected the ~~ultimate~~ company. I forget the name but the principals involved are the ~~one~~ - I guess that is one of the answers in here ~~are~~ are the principals involved in Canada Square ~~and~~ again, that judgement, I might add, being made by the board of that particular agency with some rather



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4.45 - 4.50 p<sup>m</sup>

AA

H 1012 - 3

(Mr. Fleck)

illustrious people, including Mr. Bora Laskin, on that particular board, ~~was~~ when they went to consummate this transaction, it was discovered that there was a technicality or some reason why it was not legally possible for the government to guarantee the particular transaction

H 1013 - 1 follows







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C.B.

(Mr. Fleck)

~~it was not legally possible for the government to guarantee the particular transaction~~ and as a way of providing for that situation they entered into a contract in which the then Department of Public Works became the prime tenant and OISE became the sub-tenant of the Department of Public Works. The Department of Public Works did become involved to that extent because, of course, the Minister of Public Works at that time, if he was going to be the prime tenant and therefore answering in the House for it, of course would want to be sure that his legal people were satisfied with the arrangement as well.

So that is the extent, as I understand it, of the relationship between the Department of Public Works and the OISE building.

Mr. Shibley: I gather though, as a result of that experience, the Ministry of Government Services people actually had some understanding of the terms of reference by which <sup>this</sup> type of transaction was effective. Is that correct?

Mr. Fleck: I'm not able to make that judgement, I don't know who the particular people involved were, whether they are still with the department or what happened. I could try and find that out. As I said, that would be part of the more full research that I would do on the subject.

Mr. Shibley: Mr. Fleck, I'm interested because it appears from the letter of May 16, that the hon. Mr. McKeough thought that that was the place to start, to have the Ministry of Government Services, evaluate and examine and make such contribution as ~~they~~ <sup>it</sup> might make to the matter.



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Mr. Fleck: I did have a brief conversation with Mr. McKeough on that subject and I think "evaluate" might be too strong a word in this case. It might be that they could provide advice because they might have some knowledge in this area. I don't know that at the time - no, I can't say that, I didn't ask him specifically about the OISE and whether that would be a basis of expertise or not. But he thought that in ~~Public Works~~ <sup>Public Works</sup> they are dealing with buildings and they would be able to be of some help ~~or~~ or assistance.

Mr. Shibley: And with that history, some experience within that ministry, I'm now taking you back to the notations found on the May 16 letter, and I'm still concerned to know whether in fact any instruction emanated from any source that would have brought <sup>about</sup> that notation which indicates that, yes, the Ministry of ~~Public~~ <sup>Public</sup> Services should be sought out to look at this transaction.

Mr. Fleck: ~~As I said~~ As I said, the only source that I can think of that would have led to that having been written in ~~that~~ <sup>that</sup> notation on the card, it was myself in my communication with Mr. Rowan ~~and~~ <sup>and</sup> As I said, I'm in the same position today that I was yesterday, I'm not able really to provide additional information <sup>that will help explain it.</sup>

Mr. Shibley: Are you telling me, notwithstanding your enhanced knowledge by reason of inquiries made as to what the ministry had done vis-à-vis OISE, ~~that~~ that it doesn't affect your earlier testimony as to the fact you are unable to make any explanation of that note?

Mr. Fleck: It does not at this point in time, and



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C.B.

(Mr. Fleck)

I might add that I don't feel I have yet done the intense ~~investigation~~ investigation in terms of the expertise of Public Works. But that I do intend to do.

Mr. <sup>R</sup>G. Hodgson: Mr. Shibley

Mr. Shibley: Yes ~~early~~

Mr. <sup>R</sup>G. Hodgson: Would it not seem logical

that the Premier, whose former office was Ministry of Education, would have knowledge of the involvement of Public Works in the OISE building and contracts?


Mr. Fleck: It would be reasonable to make that assumption I would think.

Mr. <sup>R</sup>G. Hodgson: I would think it might be quite logical in the context of that notation.

Mr. Shibley: I think what Mr. Hodgson is putting to you, Mr. Fleck, is that the notation is taken as a note of instruction emanating from the Premier to yourself and then you to Mr. Rowan for noting on the documents. Is that correct? I'm not saying that it was in fact ~~that way~~.

Mr. Fleck: ~~No~~, that is what one would expect it would be.

Mr. Shibley: Yes, and I think what Mr. Hodgson is saying is ~~that~~ the circumstance that the Premier would be familiar with the arrangements which led to the making of the OISE contract might well have led him to think that, yes, the ministry has experience in this type of transaction, let them have a look at it.



H1014 to follow





1014-1

(Mr. Shibley)

~~lead to the making of the OISE, which will have lead him to think that "Yes, the ministry has experience in this type of transaction, let them have a look at it"~~

Mr. Fleck: I would have to agree that it might. My recollection is that it did not. His recollection is that it did not. But I would agree that it might. As I think I have indicated before, I don't think it is too difficult to find bases for feeling that it wouldn't be unreasonable to do that.

Mr. Shibley: This is a more direct basis, though. This appears to be a situation where at least one ~~large~~ governmental department had experience with a lease-purchase type transaction; and it was a department ~~was~~ which the Premier had been minister at the time of that experience.

Mr. Fleck: Yes.

Mr. Shibley: ~~And~~ I think Mr. Hodgson's point is that wouldn't it be quite normal and reasonable for him to have given the very instruction which is evidenced by that notation?

Mr. Fleck: I would think that one could find that reasonable, ~~and~~ as I say, through my additional work in getting a better knowledge myself of what ~~experience~~ <sup>expertise</sup> there is in public works, I would be able to make a better judgement on my own as to whether it would be reasonable. But I think, as I understood Mr. Hodgson's suggestion <sup>is</sup> that it might be that if they do have that expertise ~~and~~ if the Premier was the head of that ministry, then it might be reasonable for him to have issued that instruction, and I would agree.

Mr. Shibley: The fact of the matter is the ministry assistance of that ministry was never sought?

Mr. Fleck: That I am not aware of for sure yet, but I presume that to be the case. Yes. It was not to my knowledge sought. ~~And~~ I have sent a query over to try to find out if there was in fact, any contact between Hydro, and to date I do not have a reply back on that. The first indication is "no", but I have asked to be very sure.



1014-2

Mr. Shibley: All right. Now I would like to return to the material that you ~~last~~

Mr. R.G. Hodgson: I wonder if I might add something in that regard? I believe Mr. Hilliard was the deputy minister at that time. Would you contact him, because he is in a different place these days?

Mr. Fleck: All right. Yes, I'll do that.

Mr. R.G. Hodgson: Sorry to interrupt.

Mr. Shibley: Not at all.

Mr. Bullbrook: How is the Premier's office operating with all of these ~~last~~

Mr. Fleck: There are other things still happening.

Mr. Chairman: I've got Mr. Moore up here making some of these notes, but it's good for you to make them, too.

Mr. Fleck: Oh, good, that would be helpful. I would rather have him ~~have the responsibility~~ <sup>have the responsibility</sup> ~~Mr. Chairman~~ for making the notes and I'll try to make sure I get them.

Mr. Shibley: Mr. Fleck, going back to your meeting with Mr. Candy on December 5.

Mr. Fleck: Yes.

Mr. Shibley: You had the "Advice <sup>to</sup> the Commission Decision" before you ~~and~~ <sup>and</sup> you had the suggested answers. Was there any other document before you at that time?

Mr. Fleck: No, only the documents that I have indicated I received before that time were available to me at that time.

Mr. Shibley: Working to that documentation, what, if any, information did you elicit, and what conclusions or decisions did you take as a consequence thereof?

Mr. Fleck: One of the first items I became aware of, of course, was the \$34 figure and the importance of that figure in the analysis. ~~and~~ I know, because I have some notations here, that at some stage, and I'm not sure at precisely what stage, I mean, it could have been that day - it's more likely a few days later because again, I think it took a little while to put this together - I asked for calculations to be made if the figure was at \$30 and if the figure was \$28, ~~because as I understood the process~~ <sup>process</sup> in evaluating the proposals the figures were modified; or some of the figures



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(Mr. Fleck)

were modified to enable them to be compared on an equivalent basis by putting them all on this \$34 basis. ~~So~~ I was interested in that as a technique of evaluation, and I was also interested in whether or not it would have affected the ranking of the proposals if it had been at a different value; at \$30 or \$28, ~~and~~ those particular figures are written; and I do have this ~~one~~ one with notations, <sup>the</sup> a single sheet, which I see now is, in all likelihood, the final.

( 1015-1 follows







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~~filed in the file of the Ellis-Don case, and the notes on the~~  
~~sheet of that July 19, 1972, that I have then made notations to.~~

sheet of that July 19, 1972, that I have then made notations to.

Mr. Shibley: Yes. Now, then, you said you recognized immediately the significance of the \$34.00 figure. What did you mean by that?

Mr. Fleck: Well, I'm not sure that I can find it right away in this particular document, but I recognized ~~it~~ On I guess it's in terms of the ~~land~~.

Mr. Shibley: November 15th?

Mr. Fleck: No, ~~maybe~~ the December 4th document.

On page 2 of the December 4th document, it says, ~~the~~

"The rental rate is based on ~~the~~ <sup>a</sup> quality of building at \$34.00 a square foot".

On page 5, "As each developer quoted on a different capital cost, it was determined..." and then it carries on and it talks about the \$34.00 ~~and~~ then I think there is a table on page 6 that has proposed capital costs, rental rate proposed and equivalent costs. I don't remember specifically doing it, but I would imagine that this is what would make the \$34.00 figure important to me and to understand how one had worked out the equivalent costs.

Mr. Shibley: Now, just dealing first with your then evaluation of the circumstances of Ellis-Don, did you direct your mind to the Ellis-Don position?

Mr. Fleck: I must admit that in looking at the Ellis-Don one I noticed that the rental rate~~s~~ proposed of Ellis-Don in this case was \$4.96 under the second column, and \$5.38 in the third column, and these figures, of course, are higher than the Canada Square figures in both cases, ~~and~~ I think at that particular point in time I would not be as concerned about the time aspect, maybe perhaps the broader general question of Task



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~~Force~~ Hydro reports ~~are~~ <sup>has</sup> not had quite the same pre-eminence in my mind at this point in time that it had back at the time of the discussion with Mr. Cronyn, ~~and~~ I am now more concerned with, is this a good contract and did the appropriate person ~~and~~ get the contract, <sup>and</sup> is it the best proposal that has the contract?

~~Then~~ Therefore, I am not too concerned about Ellis-Don on first looking at this because it would appear that they are high, in any event.

Mr. Shibley: Mr. Fleck, I want to be clear on this.

So ~~that~~ you are saying, again, as a result of information provided to you by Hydro, dated December 4, and I might tell the members it is Exhibit 120, that by reason of the information contained therein, as to the proposal of Ellis-Don, you relaxed in your concern respecting the earlier complaints that had been communicated to you?

Mr. Fleck: Yes, I don't remember it as then being foremost in my mind in looking at the total transaction by that time.

Mr. Shibley: But part of your reaction to this document was, as I say, you relaxed as to the concern you might otherwise have had by reason of earlier information provided.

Mr. Fleck: I felt ~~more~~ better than I ~~am~~ am sure I would have felt if the figures had been ~~yes~~.

Mr. Shibley: I take it, therefore, Mr. Fleck, that at this time, no one in Hydro was telling you that Ellis-Don originally had submitted a proposal based on a cost of \$26.00 per square foot and only subsequently were asked to submit proposals on the basis of \$28.00 and \$30.00 per ~~sq~~ square foot and that this document, in fact, only presents their position on the basis of the \$30.00 per square foot figures provided?

~~Mr. Fleck: I am not sure I would have felt if the figures had been yes.~~  
(Tape H-1016 follows)



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5.05

AA

(Mr. Shibley)

~~the \$30 per square foot figure provided.~~

Mr. Fleck: That is ~~not~~ true. I am aware, and I am not sure at what time I became aware of it, that Ellis-Don have put in bids at different levels or have worked out and this is perhaps after I <sup>had</sup> better understood the \$34 figure later. Maybe I should touch on that a bit now. But as I better understood <sup>the</sup> the \$34 figure later, I am aware, through conversation, with, I believe Mr. Candy, but I can't be sure of that, that they have put in bids at several levels because they, I think ~~and~~ I don't think others have put in bids at several levels, ~~and~~ I can remember thinking that maybe it would have been a good idea if all of them had put in bids at several levels, or something of this sort, ~~and~~ this notion did cross my mind at some stage in this work that I did.

The other part of it, ~~and~~ the \$34 <sup>became</sup> became apparent because I was, again, asking about ~~that~~ was that in the set of specifications that were provided, and that's another document I ~~had~~ either then or at a subsequent meeting; I think more likely at a subsequent meeting ~~and~~ because I asked what specifications had been provided to the proposers at some stage, ~~and~~ I believe this is ~~an~~ exhibit, is it not? ~~because~~ I would like to refer to a specific item.

Mr. Shibley: Yes it ~~is~~ is.

Mr. Fleck: Because if it is, what number would it be?

Mr. Shibley: You are talking about the ~~1.0~~.

Mr. Fleck: This is called appendix A, "The following are general ~~and~~ specifications outlined to the developers ~~and~~."

Mr. Shibley: That is part of exhibit ~~number~~ number 62, dated February 1, page two and following, those same





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(Mr. Shibley)

specifications are part of that exhibit.

Mr. Fleck: Could I see those, please, just to make sure that they are exactly the same?

Mr. Shibley: Yes, well, I think this is the easiest way. Part of exhibit 62.

Mr. Fleck: ~~Part of exhibit 62~~ They are also part, I believe, of the answers tabled in the House.

Mr. Shibley: I realize that. I just thought it would be easier for the members to work to the exhibit. Just before you get to the \$34 figure, I want it clear that when you first received exhibit 120, December 4, 1972, so far as the information provided to you therein, you were of the impression, as a result of that information, that Ellis-Don's proposal was based on a \$30 per ~~dollar~~ square foot basis and that that was its one and only proposal?

Mr. Fleck: That would be all the information I would have at that point in time, yes.

Mr. Shibley: And it was not until subsequently that you elicited further information to the effect that they had ~~proposed~~ submitted proposals on lower amounts. Is that correct?

Mr. Fleck: That is correct.

Mr. Shibley: OK. Would you like to carry on now?

Mr. Fleck: On the \$34 <sup>5</sup> on exhibit 62, it would be on page ~~1~~ they don't seem to be numbered, but ~~1~~.

Mr. Shibley: I think you are looking for page 7.

Mr. Fleck: Page 7, correct. 5 (1), under "financial" where it says, "State the cost per square foot for the construction of the building you are ~~now~~ proposing to indicate the quality of the entire structure." And here is where I first had the notion that the \$34 was not a bid as such, in the sense of saying, "We can do it. We can do what it is you want for so many dollars a square foot." ~~But~~ It was




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(Mr. Fleck)

rather an indication of what level of quality was going to be in the building. ~~and~~ This was a ~~different~~ distinction that for me was an important distinction to make because initially, when I first looked at these ~~costs~~ <sup>costs</sup>, I had the notion that, let's see, ~~that~~ Ellis-Don would be quoting \$30 a foot; and Y and R would be quoting \$28; and Canada Square \$34; and Horizon Development \$30. ~~and~~ If that's the case, of course, again, it wouldn't require a great deal to say, "Let's buy the one at \$28", let's say, if that's the case. ~~After~~ <sup>It's after</sup> I see the specifications that it is pointed out to me that the purpose of that is not to find out who can build it at the lowest price. It is to get an idea of the quality of building that is being proposed. So that 

Mr. Shibley: Mr. Fleck, do you accept the rationale of the pro-rating at \$34 per square foot?

Mr. Fleck: The rationale of the pro-rating?

Now, I had wrapped my mind around it in December. I am hoping I can do the same again now. As I 

~~Mr. Fleck: I will be on the~~

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~~(Mr. Fleck)~~

Mr. Chairman: Maybe you should enlarge on the word "rationale" Mr. Shibley.

<sup>2nd</sup>Mr. Fleck: Please do.

Mr. Shibley: I think Mr. Fleck understands the question that I'm putting to him. You know that Hydro received four sets of proposals of which Canada Square was not the lowest in rental rate but highest per square foot <sup>for</sup> the cost of building.

Mr. Fleck: Let me say this. ~~What~~ if the people that were making proposals read and understood this particular statement, which is "state the cost per square foot for the construction of the building you are proposing to indicate the quality of the entire structure" then the conclusion that I would draw from that is that when you are talking about these different building proposals, they are indicating that that is the quality of structure that they are going to provide.

Now if you are then wanting to compare the four, I can see the notion of equating them on a \$34 basis as being one way of equating them. I guess I would see a better way perhaps and hindsight is always I find, ~~is~~ very easy to do. <sup>On</sup> hindsight I might ask each of them to give me a rental rate based on a quality level of \$34 rather than going through the conversion process. But I can understand the conversion process, yes, if that's ~~the~~

Mr. Shibley: Mr. Fleck, if you can, then I would like you to help this committee <sup>to understand,</sup> because as of the moment I think there are a number of committee members that would





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like that assistance.

Mr. Fleck: I think my understanding of it would be, if it <sup>is</sup> saying that there is a company here that is quoting \$28 a square foot and their rental would be so much per square foot, if that were the case, then I would see the assumption of Hydro being, by doing this ~~an~~ equation, that it isn't going to cost them \$28 a square foot, it is going to cost them \$34 a square foot, ~~and~~ then you take in whatever rate of interest ~~they~~ that particular developer had his financing in at, and you would take into account the difference in the maintenance estimates that were made of the four developers and through some process you blend all these together and you come up with ~~the~~ <sup>the</sup> figures.

So I can understand the approach, it is not the approach I would take.

Mr. Bullbrook: May I just ask a ~~quick~~ question?

Mr. Shibley: Yes, sure.

Mr. Bullbrook: I'm very interested because we recognize according to the evidence of Mr. Cronyn and yourself that the context again of your interest ~~would~~ *was* as ex-officio member of COGP.

Mr. Fleck: But when I'm into this I'd say I'm not wearing my COGP hat, to use my testimony of the other day, I'm ~~was~~ wearing my chief executive officer hat.

Mr. Bullbrook: Right. I want you to put back on your COGP hat.

Mr. Fleck: Oh me!

Mr. Bullbrook: Would you do that for me?

Would you put your COGP hat back on?

Mr. Fleck: To the best of my ability.



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Mr. Bullbrook: In the context then of you✓  
and Mr. Cronyn, being very concerned about the propriety of  
this type of proposal method.

Mr. Fleck: Whoa, whoa, at least I think whoa.  
What does propriety mean there?

Mr. Bullbrook: Well, whether it is appropriate.

Mr. Fleck: Appropriateness.

Mr. Bullbrook: ~~Appropriateness~~ inference there of  
malfeasance or anything ~~okay~~, okay.

Mr. Fleck: Fine.

Mr. Bullbrook: ~~Okay~~ I really get hung up  
on things like your comments and the Premier's comments  
about this being not consistent with Task Force Hydro  
reports.

Mr. Fleck: I'm sorry <sup>about that</sup> I don't ~~remember~~ <sup>remember</sup> having  
said that.

Mr. Bullbrook: Not inconsistent <sup>it</sup> I'm sorry, not inconsistent  
I should have said. Help me if Task Force Hydro had anything  
to do with this, it didn't really.

Mr. Fleck: Not that I know of, no.

Mr. Bullbrook: It was COGP report number 10, that  
had to do with this, wasn't it?

Mr. Fleck: COGP report number 10, I'm not sure  
it was report number 10, but one of the late COGP reports  
gets into this area of requests for proposal.

Mr. Bullbrook: <sup>Mr. Gault</sup> <sup>Number 8</sup> Correct, you are helping me. I'm  
sorry to take this time.

Mr. Fleck: ~~Not at all.~~ Not at all.

Mr. Bullbrook: ~~I just want to go at this time~~



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(An Hon. Member)

~~gets into this areas of requests for proposal.~~

~~An Hon. Member: Correct.~~

~~Mr. Bullbrook: You are helping. I am sorry to take this time again.~~

~~Mr. Shibley: Not at all.~~

Mr. Bullbrook: I just want to go at this. How

do you feel about this pro-rating as far as future -- how would *you* ~~feel about this~~ <sup>with</sup> your COGP has on ~~it~~?

Mr. Fleck: Well, with my COGP has <sup>it</sup> on, ~~it~~

I am sure that I would be able to recommend improvements on this procedure.

Mr. Shibley: Such as what?

Mr. Fleck: I think I already indicated one

possibility would be, if you are going to set a quality level, <sup>to</sup> ~~then~~ indicate the quality level and then to get proposals based on that quality level. That, I think, would definitely be an improvement. I might be able to come up with more improvements with more work.

Mr. Shibley: Mr. Fleck, don't you start with the end product in the sense of the rental rate that is being proposed and work back from that? Built into that rental rate would be the cost of construction, the interim financing costs, the design costs, the profit, by way of builder's profit if any, the ~~the~~ profit on the management portion of the rental ~~charge~~ charge if any, the profit referable to the financing per se -- all of that <sup>Mr. Fleck: Correct. Mr. Shibley: And,</sup> enters into the rental rate ~~and~~ according as some developer may be prepared to take less profit in any one of those areas, he may well be able to provide a building of equal quality in terms of the amount of money he is prepared to put into the building at a lower rental rate.

Mr. Fleck: Are you saying that it's possible that ←

Mr. Shibley: Yes.

Mr. Fleck: <sup>two</sup> ~~two~~ developers, ~~one~~ one would be able to provide something of comparable quality at a lower rate than the





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other?

Mr. Shibley: Yes.

Mr. Fleck: I agree.

Mr. Shibley: Because there are these other factors <sup>into</sup> that enter ~~the~~ computation of the rental rate. Is that correct?

Mr. Fleck: Yes.

Mr. Shibley: So that to simply adopt a pro-rating predicated on cost of constructing the building, fails to take into account that some of these other developers who were submitting a rental rate lower than Canada Square might well ~~have~~ have produced a building of equal quality, ~~but~~ but because they were taking less under any one of these other headings <sup>if you</sup>, could come up with a lower rate.

Mr. Fleck: Well, I think that could be. As I understand it, and I would have to go back through it, the different rates of interest, the financing rate in other words, and this is one area where you would have a difference in competitiveness one from another, was taken into account in this pro-rating, and also of course as I indicated, differences in the maintenance, ~~cost~~ cost of maintenance, which would include presumably some ~~and~~ residual amounts for the manager-builder of the project. Those both were, as I understood it, taken into this conversion. The other aspect of whether two builders can build in terms of their costs of actual construction ~~of the~~ bricks and mortar, <sup>and</sup> if one can do something of a comparable quality to the other at a lower cost, I didn't see how that was taken into account in the pro-rating.

Mr. Shibley: In any event, Mr. Fleck, would you comment upon adopting the pro-rating method ~~that~~ <sup>that</sup> ~~was~~ <sup>Mr. Fleck:</sup> ~~was~~ employed by Hydro, whether it was a proper or improper method of effecting a comparison of these four proposals? <sup>proper or</sup> ~~improper~~ improper. That's difficult. I would rather, if I can, use other words.

Mr. Shibley: All right.

Mr. Renwick: Appropriate or inappropriate?



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Mr. Fleck: As I have indicated, I think I could, without a great deal of difficulty using hindsight, and I would hope foresight, but certainly with hindsight, come up with what I would consider to be a more ~~appropriate~~ appropriate method of doing it and I can see certain weaknesses ~~inherent~~ <sup>inherent</sup> in this particular method.

Mr. Bullbrook: But at the time of your evaluation of this, with your COGP hat on, report number eight had been tabled.

Mr. Fleck: That is correct.

Mr. Bullbrook: Well, is there hindsight <sup>involved in that?</sup>

Mr. Fleck: ~~But~~ <sup>But</sup> you had asked me to put my hat on again, I had taken it off. You said, <sup>but it on</sup> "now in looking at this particular transaction."

Mr. Bullbrook: I recognize there's a difficulty here, really, in your dual role, because here you are attempting to prepare the Premier, <sup>and</sup> help me here; again I don't want to be unfair, but you had to prepare the Premier a very complex explanation, that certainly if he didn't give at the time of the initial response I think he did give to ~~me~~ <sup>me</sup> I believe <sup>is</sup> it was winding up the budget or winding up the Throne, <sup>but</sup> ~~but~~ <sup>Such debate</sup>

Mr. Fleck: No, I think what you are referring to was an estimate made by Mr. Nixon of an \$83 million profit that I found fantastic --

Mr. Bullbrook: Yes.

Mr. Fleck: <sup>a</sup> And a great deal if one could get that sort of a return and I thought there was some very --

(H-1019 to follow)



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(Mr. Fleck)

~~that I found fantastic and a great deal if one could get that~~  
~~sort of a return and I thought there were some very basic~~ ~~errors~~  
~~within that analysis; that is~~ ~~correct~~.

~~Then~~

Mr. Bullbrook: Yes, the point I am wanting to bring to your attention <sup>is</sup> you used the phrase "hindsight" but really, in evaluating it from the point of view of your knowledge as to COGP's recommendations to government, <sup>(really)</sup> there ~~wasn't~~ hindsight involved there.

Mr. Fleck: COGP did not make any specific recommendations as to exactly what procedures you would use, ~~as~~ I am <sup>(afraid)</sup> ~~afraid~~ the recommendations <sup>of</sup> ~~COGP~~ wouldn't be helpful.

Mr. Bullbrook: I'm sorry; that was inappropriate on my part to say it that way. But really, when you were evaluating this structuring of the bids from the pro-rating point of view, you were aware of what COGP had in mind?

Mr. Fleck: Yes, that's ~~was~~ true; I was aware of what COGP had in mind.

Mr. Renwick: Mr. Chairman, if I may just make one comment. Mr. <sup>ec</sup> ~~Fleck~~, I think what bothers me about the direct-line pro-rating operation and the results, was that it was so baldly stated without qualification. I agree with you that if you want to go back, you go back to the people, ~~and~~ to each individual one, and say, "This is what we want; now you give <sup>us</sup> your proposal on this basis". That time had passed.

Mr. Fleck: Yes.

Mr. ~~Mr~~ Renwick: ~~And~~ It did appear, to even a complete novice, such as myself, looking at it, that there was something fundamentally wrong. I can see that I would use that kind of a projection but I think I would have qualified it in some way and indicated that this, however, does not take into account ~~certain~~ variables that might result from these factors. The one which





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that struck me is quite obvious; the better the quality of the building, presumably the lower the maintenance costs. That was kind of an obvious one that struck me about it. All I say is that my problem is not the ~~was~~ question of whether or not there was or was not a better method of doing it, but the fact that it was put forward without qualification.

Mr. Fleck: Yes, well, I ~~was~~<sup>would</sup> not be aware of qualifications or lack of qualifications at that particular time but I understand what you are saying.

Mr. Walker: Well, when asked about your general impression of the pro-rating, you said that with the benefit of hindsight, you would ~~probably~~ probably be able to develop a better method of approaching it. Do you mean a better method of pro-rating or a better method than ~~pro-rating~~ pro-rating?

Mr. Fleck: Well, I think it would probably be more the latter than the former. I think certainly, in ~~my~~<sup>my</sup> view, it would be far preferable to present the developers, to the extent that you can, with an idea of what it is you want, including the quality level, ~~and~~ then you wouldn't have to pro-rate, because any pro-rating system has its problems.

Mr. W. Hodgson: ~~Maybe~~<sup>Maybe</sup> you should get hold of Mr. Nixon's expert, ~~on this~~.

Mr. Bullbrook: We are keeping him hidden.

Mr. Gaunt: We are saving him to the last.

Mr. Bullbrook: We are not going to make him public.

Mr. Gaunt: He's the wind-up. Mr. Chairman, may I ask of Mr. Shibley if he intends to ask the witness about the establishment ~~about~~<sup>of</sup> the so-called, in Mr. Allan's term, benchmark of \$34.00 and how Hydro arrived at it and whether or not ~~...~~

Mr. Shibley: No, I don't, Mr. Gaunt, because after all, I am dealing with Mr. Fleck in ~~the~~<sup>his capacity as</sup> the only reason I have engaged him in this and I have some other reasons that I won't mention at the moment, ~~but~~<sup>is</sup> apparently, in December it was



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sufficiently of concern to the Premier's office that someone with your ~~own~~ capabilities, Mr. Fleck, take a <sup>hard</sup> look at what had ~~xxx~~ gone on in Hydro. Is that correct?

Mr. Fleck: I might also add it is somewhat on the basis of my interest, in the sense that if I hadn't had some background myself in this particular type of transaction it is possible that someone else and not necessarily even in the Premier's office, I might add someone else might have been been involved in this, but this was something where I did have some background.

Mr. Shibley: Yes, and because of that you were effecting a review with benefit of certain data submitted by Hydro ~~and~~ I suggest to the committee you <sup>would</sup> be alert to the form which ~~is~~ that data took from time to time, <sup>(now)</sup> ~~this~~ this office has received the November 15th <sup>21</sup> ~~memo~~ memorandum with a covering letter setting out <sup>a</sup> ~~the~~ \$2.4 million figure. It has received the December 4th answers to the questions with certain information that does not appear to be

(Tape H-1020 follows)



H-1020-1

(Mr. Shibley)

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~ complete in terms of Ellis-Don at least. I just want to know what was the state of information, if you like, Mr. Fleck, within the Premier's office at any given point in time. ~~\_\_\_\_\_~~ I am taking it that at this point in time the lack of prior information, and I say "prior" lack of information in the Premier's office, prior to the effecting of the contract on November 1, is now being back-filled, so to speak, with information you were gathering in December of that year. Is that correct?

Mr. Fleck: I'm informing myself to a much greater extent at that point in time. Yes.

Mr. Shibley: All right. Having got that far with your look at this data, did you also consider the position of Horizon Development even after the pro-rata ~~\_\_\_\_\_~~ process was effected?

Mr. Fleck: At some stage, because as I mentioned it was obvious that the maintenance cost was a significant portion of the rental amount, ~~and that~~ I was interested in how these maintenance costs had been developed, and I became aware, and I can't find the specific place here, but I can just mention that I became aware that the Horizon one, ~~Horizon~~, as I remember it, was based on a 1971 figure, and I asked what the bases were of the others. It may have been the reverse, I may have asked, "Well, how is this one calculated?" ~~\_\_\_\_\_~~ And it was calculated in such and such a way, and it is 1975, ~~and~~ as I was going through each one, I at some stage became aware that the Horizon one had been based on a 1971 ~~\_\_\_\_\_~~.

Mr. Shibley: Base year.

Mr. Fleck: Base year. And I said, "Well, how did you then equate this if the other three are on a ~~1975~~ 1975 base year?" ~~and~~ You have got all these escalation figures in on the maintenance, Isn't this going to be a higher figure?" And the feeling was after some, I guess, consideration by Hydro that, yes, that in fact was the case.

Mr. Shibley: I take it then from that answer that it was you yourself who first discovered the fact that the Horizon proposal had employed a figure for maintenance with a 1971 base year.





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Mr. Fleck: I can't be positive <sup>that it was me</sup> but I had the feeling that it had not been a matter of general knowledge before that point in time.

Mr. Shibley: All right. It was new, to use three words. I take it you were dealing with Hydro people at this time?

Mr. Fleck: Oh yes.

Mr. Shibley: And did you then inquire of Hydro whether they had followed through with Horizon to ascertain whether in the ultimate result they would have entered into the agreement at that rental rate with a base year of 1975 for maintenance?

Mr. Fleck: No, I did not. And I guess partly because as I understood it when Hydro had made the decision to go ~~and~~ with Canada Square they were not aware of this particular fact and that they had decided to go with Canada Square even though the rental would be 10 cents higher and had reasons for that. And I guess it seemed to me at the point in time that I discovered this, what this would show is that Horizon were not in fact 10 cents lower, using this particular method at that point in time. They would be somewhat higher if that modification were made. But I did not at that time suggest, or approach Horizon, or anything of that sort, or suggest that they approach Horizon.

Mr. Shibley: In early December when we were having these discussions with the representatives of Hydro, did you inquire of them as to what if any follow-up they made with the other developers in any area?

Mr. Fleck: I cannot remember specifically doing that, no. I cannot.

Mr. Shibley: Did they make any representations to you in that respect?

Mr. Fleck: Again, I cannot specifically remember that subject. I would think that some of that would come up. Certainly I was concerned with the before. I don't know that I had a conscious ~~concern~~ concern with the after portion.

Mr. Shibley: Mr. Fleck, I reviewed this with you in part for the reason that I'd like you to tell the committee why it was that you were effecting this review at that particular time?




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Mr. Fleck: I guess it is a total of quite a few things that have happened during that time. The main and central item at that particular point in time would be the questions that had been raised by Mr. Nixon in the House. Now I am sure that in all likelihood I would have been finding out more about it in any event, given some of the prior things that had happened, but in terms of the timing and the fact that I am on to it at that particular point in time, I think I would have to say the main contributing factor

H-1021-1 follows





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AA

(Mr. Fleck)

~~the fact that I'm on to it at that particular point in time,~~  
~~I would have to say that the main contributing factor would~~  
~~have to be~~ Mr. Nixon's question. The government is responsive.

Mr. Shibley: Do I take it also ~~something~~ .

Mr. Bullbrook: And responsible.

Mr. Fleck: Right.

Mr. Shibley: Do I take it also, Mr. Fleck, that it was you who was responsible for Hydro compiling information as to the rental rate in various downtown office buildings?

Mr. Fleck: I am ~~was~~ not sure of that. I know that information of that sort ~~was~~ provided and I know <sup>that</sup> in some cases, I asked for such information. I don't know if they had that for other purposes or ~~if~~ if they would have had it for <sup>other purposes?</sup> ~~something specific~~ but certainly, I ~~asked~~ asked for it.

Mr. Shibley: All right. And it was provided to you?

Mr. Fleck: ~~Yes~~ Yes.

Mr. Shibley: And would you tell the members what is the document that was provided to you?

Mr. Fleck: Let me just take a look for a moment, if I may. I have a document dated December 6th that gives construction ~~costs~~ costs and also gives some rental costs.

Mr. Shibley: And those include, what buildings?

Mr. Fleck: Simpsons Tower, Royal Bank, ~~and~~ Travelers Building, T - D Centre <sup>and</sup> Commerce Court on the construction costs, and on the current annual rental rates, T - D Centre, Travelers Building and Commerce Court.

Mr. Shibley: So that was supplementary data provided to you by Hydro?

Mr. Fleck: Yes. And then I have another sheet





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AA

(Mr. Fleck)

here that has current annual per square foot rentals for office space in the University Avenue, Bloor-Yonge district. I think I may have said some of these buildings are far away or something of that sort. 522 University Avenue, National Life, ~~522 University Avenue~~ \$8.50 to \$9.50; 439 University Avenue, Phoenix Building, \$8.50 to \$8.75.

Mr. Shibley: You needn't go through them, Mr. Fleck. I gather you also considered the contract itself.

Mr. Fleck: It's a rather bulky contract. I think that I may have been interested in some of the terms but I did not, myself, go through the contract.

Mr. Shibley: Well, the term that still interests myself is the term requiring evaluation of the building at the end of construction.

Mr. Fleck: Yes.

Mr. Shibley: Have you applied your mind to that provision in the agreement?

Mr. Fleck: Yes.

Mr. Shibley: And have you similarly applied your mind, generally, as to whether or not this was a good or bad deal for Hydro?

Mr. Fleck: Well, I would say that would be one of my concerns, of course, in undertaking the review in December, and again, <sup>I'm sure</sup> not with the depth that others would do with time and resources.

Mr. Shibley: Right.

Mr. Fleck: But I know that the feeling that I had, when I was done, was that it was a good deal for Hydro,



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AA

(Mr. Fleck)

But I had one concern, one proviso, that I wasn't ~~sure~~ sure of at that time, and if my understanding of Hydro's understanding of that is accurate, then I would say it's a good deal <sup>and</sup> that, of course, I guess you have touched on, has to do with the evaluation. ~~was~~ I wonder if it would be possible for me to see that specific clause, because I know I have seen it and it was the one that gave me a little concern.

Mr. Shibley: I believe that the letter is ~~part of the~~ one of the letter agreements that are part of the larger exhibit. Mr. Bell will give <sup>it to you</sup> ~~me~~ in a moment.

Mr. Fleck: What I am looking at here, and I think ~~that~~ this ~~will~~ be enough for my purposes, is a letter from Canada Square Corporation to the Hydro-Electric Power Commission dated October 18th, 1972.

~~Mr. Shibley: Yes and I think that you are looking for particularly the wording in the last line in the second~~

H 1022 - 1 follows



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5:35 - 5:40 pm

C.B.

~~(Mr. Fleck)~~~~October 10, 1972~~

Mr. Shibley: Yes, ~~and~~ I think you are looking for, particularly, the wording at the last line in the second paragraph.

Mr. Fleck: Oh, yes, this is where the project would be appraised?

Mr. Shibley: Yes.

Mr. Fleck: ~~and~~ If the project was appraised <sup>at</sup> less than \$34, I believe there was 75 per cent of that would accrue to Hydro in the form of a lower rental and 25 per cent would accrue to Canada Square as an incentive to come up with an appraisal that was less than \$34, I would guess or something of that sort.

~~My~~ My concern there was ~~is~~ how you were going to carry on that appraisal. If the bricks and ~~and~~ mortar, I guess <sup>that</sup> is the way of putting it, of the building, ~~the~~ contained elements that were worth ~~at~~ \$34 in <sup>the</sup> sense of ~~either~~ ~~at~~ a cost of \$34 or ~~at~~ a replacement cost of \$34, or it was reasonable to expect that's what it would cost a builder to build it for, then, I thought, it was a good deal.

You see, another way you might appraise <sup>of</sup> ~~it~~ says appraisal <sup>of</sup> building, appraised value of the project. Another way that you could appraise the value of the project ~~and~~ maybe this is far-fetched but I'm just thinking out loud. ~~(~~ Another way you could appraise the value of the contract would be the value of the lease, in a ~~xxx~~ sense. In other words, you not only have the building but you have a rental arrangement with Hydro for that building. So that if one did the appraisal





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5:35 - 5:40 pm

C.B.

(Mr. Flock)

on the basis of the present value, let's say, of the lease arrangements, at least as it related to the Hydro portion of the building. I realize you get into some complications on ~~renting~~ renting back certain portions ~~since~~ <sup>since</sup> that's calculated on the basis of \$34 a foot, I would imagine the value of that contract would, in all likelihood, work out to close to \$34 a foot if your reverse arithmetic was as good as your forward arithmetic.

So that what we were talking about, in other words, <sup>was</sup> ~~that~~ that the value in terms ~~that~~ <sup>of</sup> materials and blood, sweat and tears and everything that goes into that is \$34. Or, and I didn't want to rule out this possibility, if the builder is an efficient builder and can produce something for ~~\$3~~ <sup>3</sup>3.50, let's say, that it would take someone else \$34 to provide, this gets back, I guess, to the previous notion of comparable value at different costs. I wouldn't see the person being penalized for that. That's great, because Hydro is going to get some of that and so is the ~~builder~~ builder and that is a notion that I very much support in terms of proposals -- the notion of sharing the -- do we use profits in government? ~~xxxx~~ <sup>No</sup> -- sharing the proceeds.

Mr. Bullbrook: The benefits.

Mr. ~~Shawley~~ Flock: Thank you, a good word. That wouldn't bother me. So these are -- I know it has taken a long time -- but these were the notions that I was thinking of in terms of appraisal, and other than that, ~~I~~ if the understanding that Hydro has of that is accurate, I see nothing wrong with it. But the wording bothered me a bit.



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5.40 to 5.45 pm  
DT

(Mr. Fleck)

~~undoubtedly~~  
~~As I understood it, they went through this conversion process of~~  
~~trying to get them all on the \$34.00 basis.~~ I found it very difficult to make a comparison. I had the feeling that it was apples and oranges and that it was hard to make a comparison. ~~and~~ I know that one of the purposes of trying to put them all on a \$34.00 basis would be to convert them all into apples or all into ~~oranges~~ oranges, I am not sure which but the -- or, no, I had another fruit in mind that I won't mention.

Mr. Bullbrook: You were going to say lemons?

Mr. Fleck: But again, as I indicated, I would prefer a method, I would think, where I was presenting the information to the developers and then ~~having~~ <sup>letting</sup> them come up with their proposal.

Mr. Shibley: ~~My~~ May I put it to you in another way? The conversion did not really effect a premise upon which you could make a comparison?

Mr. Fleck: ~~It~~ It did not effect a conversion that would give me confidence in making a comparison based on the information that I have, yes.

Mr. Shibley: A great deal more information is required referable particularly to the other three proposals before a true comparison could be made.

Mr. Fleck: Well, ~~about~~ the area that I had concern with here is in this notion of a comparable level of quality --

Mr. Shibley: Yes.

Mr. Fleck: ~~And~~ finding a way in which to do that, and I might add, that's very difficult to do. At least, I am not in the building business, but I would imagine that it's very difficult to do. I am not quite sure --

Mr. Shibley: Particularly when you are working without design plans and specifications.

Mr. Fleck: Well I was certainly working without them, yes. I had the set of specifications but I wasn't --

Mr. Shibley: Well, these are general specifications, I am talking about the kind of specifications that would be submitted on a tender basis to the builder to construct.



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C.B.

Mr. Shibley: Yes, Mr. Fleck, I know what you mean in that respect. You say the wordin<sup>g</sup> ~~is~~ <sup>to be</sup> ~~that~~ <sup>you</sup> and you also say if the understanding of Hydro in that respect was correct. You are taking their understanding to be that as evidenced by Mr. Candy's testimony. Is that correct?

Mr. Fleck: That is correct.

Mr. Shibley: And if Canada Square's view of what that wordin<sup>g</sup> means is different?

Mr. Fleck: Or if a legal opinion is such that this is all right. It may be ~~that~~ <sup>is</sup> that I don't understand the terminology. It may be that in terms of a legal opinion there is no problem; what I think it is, is what it is; great.

Mr. Shibley: This is <sup>the</sup> ~~is~~ area of ~~Wazanda~~ <sup>Wazanda</sup> hazard.

Mr. Fleck: I don't what value is. Value is a very elusive, sometimes, thing to put a ~~to~~ price on.

Mr. Shibley: Mr. Fleck, <sup>you</sup> ~~we~~ have had the opportunity to attempt to make your own independent comparison of the four proposals. <sup>Would</sup> ~~can~~ you agree with me that information is lacking which would permit you to make that comparison?

Mr. Fleck: I'm sorry; would you repeat that?

Mr. Shibley: You yourself have attempted to make a comparison of the four submissions. Were you seized of sufficient information to make such a comparison?

Mr. Fleck: I found it very difficult and I realize this is one of the reasons, as I understand it. They went through this conversion process <sup>of</sup> ~~trying~~ to get them ~~all~~ <sup>all</sup> on a \$34 basis. ~~I found it very difficult to~~

H 1023 to follow



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5.40 to 5.45 pm  
DT

(Mr. Fleck)

I would want to take into account.

Mr. Bullbrook: Do you mind, Mr. Shibley, if you --

Mr. Shibley: No.

Mr. Bullbrook: No, I am not going to continue the questioning but <sup>there was</sup> something that I think Mr. Gaunt wanted to get some explanation of. ~~something~~ I find that in establishing what Mr. Fleck considers an appropriate method of approaching this type of proposal acceptance, the cornerstone, as I think Mr. Allen had used the phrase, has to be the judgement on the value per square foot or the qualitative judgement, ~~and~~ I am wondering if Mr. Fleck -- I think this is what Mr. Gaunt had in mind -- didn't feel it incumbent upon him to discuss with Hydro how they came to the qualitative conclusion

Mr. Shibley: Well, ~~something~~ Mr. Fleck, ~~you~~ you haven't had the benefit of earlier exchanges in this area, and I think it was led off by Mr. Allen's comment, "What made them think that \$34.00 per square foot was a proper benchmark to establish the value of the type of building required by Hydro, and why wouldn't a building, for example, of ~~some~~ \$30.00 per square foot have done the job just as well?" Did you apply your mind in any respect in that connection?

~~Mr. Fleck~~  
(1024 to follow)





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B.A.

H-1024-1

(Mr. Shibley)

~~Just as well. Did you simply have a deal in respect in that connection.~~

Mr. Fleck: Not to any great ~~and~~ extent ~~other than~~

~~of course~~ of course, one of the things I did ask, and did receive, was some idea of what building costs were for other buildings in the downtown area and also other buildings of a quality that they thought would be appropriate. I could certainly see the ~~the~~ notion that, and I'll try not to get off ~~in~~ another area, if you are going to have the building in the downtown area and next to the government buildings, I could see that you would want ~~the~~ <sup>it at a</sup> quality to fit in with that group of buildings, ~~as~~ I could also see that <sup>if</sup> this was the central building and the headquarters ~~of~~ of an institution of the size and prestige of Hydro that they would want something of which they could be proud. So I was ~~the~~ interested in seeing what comparable rates were. I had no ~~the~~ idea in my own mind whether \$34.00, or \$10.00 or \$40.00 was an appropriate amount. So I would have ~~had~~ <sup>E</sup> a similar question to that of Mr. Allan. I guess perhaps I was convinced more easily than he might be.

Mr. Shibley: Mr. Fleck ~~because~~

Mr. Fleck: <sup>E</sup> Because I have a great deal of respect for Mr. Allan.

Mr. Wm. Hodgson: Would the building by-laws, as far as the City of Toronto is concerned, <sup>in</sup> the University area, or the zoning of that area, the quality of building <sup>that</sup> in the City of Toronto <sup>set out for</sup> that area have any bearing on the quality of the building that Hydro would have to ~~be~~ build, <sup>whether</sup> it be ~~\$25.00~~ <sup>\$25.00</sup> and a square foot or \$30.00 a square foot?

Mr. Fleck: Not that I know of, but I really have no information on that.

Mr. Wm. Hodgson: You don't know of any city regulations, building regulations, as far as ~~the~~ <sup>E</sup> University Avenue is concerned?



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B.A.

Mr. Fleck: I know of none, no.

Mr. Chairman: Mr. Gaunt.

Mr. Gaunt: Mr. Chairman —

Mr. Chairman: Mr. Candy will probably have ~~some~~

some information on that, Mr. Hodgson. Mr. Gaunt:

Mr. Gaunt: My concern, Mr. Chairman, and why I asked the question of you a few moments ago that I did, was that the \$34.00 figure is really the figure around which the entire pro-rating system revolves. ~~and~~ I was ~~at~~ wondering if, in fact, Mr. Fleck had made any enquiries of Hydro as to how they arrived at that \$34.00 figure. That was my mental process and I thought it important when we were discussing the matter of the pro-rating.

Mr. Fleck: I did ask and, as I say, I did receive this information. ~~and~~ I was, I think, reasonably satisfied with that at that time. I also, though, was concerned as to what effect it would have had on the relative positions of the four developers if they had picked some other benchmark. Where did the benchmark come from if it's out of the blue somewhere? I said, "Okay, what ~~if~~ if we had picked some other benchmarks? What effect would that have had on this particular pro-rating?" And that is what I did. — \$28.00 and \$30.00 are two different benchmarks. I had the calculations prepared as to what would have happened if you had used \$30.00 and \$28.00. ~~and~~ It just so happens, by coincidence or whatever other appropriate term one might have used, when you went through that Canada Square were still the low one of the four on that basis. — After having made this Horizon ~~adjustment~~ adjustment for ~~maintenance~~ maintenance costs, with that at least ~~provided~~ provided ~~me~~ some small measure of comfort. You were relating it before to the feeling of seeing the Ellis-Don figure, well, once again, when I saw that if you worked it out on these different bases you still came to the same result, at least I felt somewhat better about it.

Mr. Gaunt: Did you enquire of Hydro as to whether the \$34.00 figure was arrived at using <sup>the</sup> as a base, their original



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B.A.

(Mr. Gaunt)

construction costs back in 1968?

Mr. Fleck: I believe that I had ~~was~~ some indication that there was some earlier figure, and then there was an inflation factor added to that; and one came up to \$34.  
~~and~~ I <sup>also</sup> ~~asked~~ asked, of course, whether the \$34.00 was ~~there~~ there because ~~the~~ \$34.00 was the Canada Square figure, or where it had come from, and, of course, it was indicated to me on the specifications that ~~no~~, excuse me, it wasn't on the specifications, it was shown to me, or at least, I had the feeling when the information was provided to me that the \$34.00 was picked independently of the fact that Canada Square happened to submit a \$34.00 ~~figure~~ figure, ~~and~~ again, this led me to say, "Well, I would just like to see how they rank if you don't use \$34.00," and it ~~led~~ led me, of course, into doing it at the \$30.00 and \$28.00 figure as well.

~~Mr. Gaunt: But you really didn't pursue the matter of applying the inflationary...~~

~~Mr. Fleck: No, I did not.~~

(Tape HM-1025 follows)







July 5th, 1973

5.50 - 5.55 pm

1025 - 1

AA

(Mr. Gaunt)

Mr. Gaunt: <sup>you</sup> But/really didn't pursue the matter

of applying the inflationary ~~amount~~

Mr. Fleck: No, I did not.

Mr. Gaunt: ~~land~~ matter to the original construction cost figure.

Mr. Fleck: Yes that's right.

Mr. Gaunt: Did you enquire as to ~~whether~~ whether the ~~original~~ original figure was a construction cost, or whether it included interim financing, architectural fees and all the other things? *Mr*

*I believe*  
Mr. Fleck: /Mr. Candy explained to me at that time, and I am not sure that I followed it completely and maybe it was because I wasn't as interested in that aspect, ~~that~~ it did include these various elements. I might add that Mr. Candy was the one that I had most of the contact with during that time ~~and he was~~ any time I asked for anything, it ~~was~~ was provided very quickly and he was most cooperative in providing anything that I wanted.

Mr. Shibley: Mr. Fleck, you were aware, of course, that the contract itself had been signed as at November 1, 1972?

Mr. Fleck: By this time, I am, yes.

Mr. Shibley: Was there ever any suggestion that if, as a result of your own review, it was concluded that it was an improvident transaction that the contract could be undone, so to speak?

Mr. Fleck: No, it was not.

Mr. Shibley: Mr. Chairman, these are all the questions I have of this witness referable to that topic. I have a number of additional areas of questioning. It is now seven minutes to six or eight minutes to six. I should tell the committee that Mr. Fleck has what I consider to be a very legitimate reason for being away from the city in



July 5th, 1973

5.50 - 5.55 pm

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AA

(Mr. Shibley)

the early part of next week. He volunteered to cut short his trip to be here on Thursday if we desired. I have indicated to him that, having regard for the ~~undertakings~~ numerous undertakings that he has made to this committee, ~~I think~~ I think it would be better for all concerned if he took the extra day on his trip and had the benefit of Friday, Saturday and Sunday of that weekend to brief himself ~~on the~~ the overall result being that with your agreement, I would suggest that this witness be released at this time to return a week Monday or sometime within that week, depending on what is convenient. As I say, at that time I have a number of other areas of questioning to cover with him that haven't even been touched on yet and, in addition, he could afford the committee the benefit of the information resulting from his further investigation. Have you any views in that respect?

Mr. R.G. Hodgson: I just ~~have~~ have one very simple question. Where does that leave us ~~with~~ with our other select committees, <sup>on</sup> the week of the 17th?

Mr. Shibley: What other select committee?

Mr. R.G. Hodgson: We have got a conference that four of us are on.

Mr. Chairman: Well, gentlemen, ~~as~~ as you know, I have ~~suggested~~ suggested that on Monday evening, the members of the committee should get together with counsel to try and decide some of these things at supper time. I am not inviting the press or any of the witnesses to that meeting. It is just those who have their heads around this table. I didn't even include Hansard or Mr. Fleck in that meeting. So I am talking the horseshoe here.

Mr. McCallum: Does the ~~the~~ horseshoe have a base to it, or is it just for the upper echelon?



July 25th, 1973

5.50 - 5.55 pm

1025 - 3

AA

(Mr. Chairman)

Mr. Chairman: It is an open-ended horseshoe.

~~And~~ I want to get together just to try to <sup>by</sup> coordinate our times, because ~~because~~ one thing we have ~~not~~ <sup>very shortly is</sup> to know where we are going, ~~very shortly, but~~ It is difficult to do it here when we are assembled; ~~because~~ <sup>at the time</sup> we want to get underway with the witnesses. So I've asked that that be held at supper time on Monday and maybe we can get some of those things straightened away. Now, Mr. Fleck, I assume will be in town anyway.

Mr. Shibley: No, that's the point.

Mr. Chairman: No, he won't be here next week but I assume that he will be here the following week, whether we want him.

Mr. Shibley: Right.

Mr. Chairman: <sup>very</sup> or he has other business to attend to.

Mr. Shibley: The only thing to be decided now is that Mr. Fleck need not be available next week. If we decide, for any reason, that ~~we~~ <sup>we</sup> are not going to sit on the week thereafter, then it doesn't compound but rather relieves his ~~difficult~~ situation. I gather that is agreed upon.

Mr. Chairman: And you have lots of witnesses that you can deal with next week?

Mr. Shibley: Oh, yes.

Mr. McCallum: Mr. Chairman, just before you break up, I have been desirous of putting a question to Mr. Fleck that I wouldn't ask him to answer now, in view of the fact that he is coming back but it bears on what a lot of evidence has been direct to this afternoon which has to do

1026 - 1 follows



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5:55 - 6:00 pm  
CA

H-1026-1

(Mr. McCallum)

~~xx I have been desirous of putting a question to Mr. Fleck and I~~  
~~wouldn't ask him to answer any question if he said that he is coming~~  
~~here, but to make a lot of questions and to be instructed to~~  
~~this afternoon which has to do with pro-rating. As I understood~~  
it, Mr. Fleck's hindsight tells him that it would be better if  
everyone had been told to pick a \$34 price. That is not in fact  
what the proponents here were told to do, and I wonder if Mr. Shibley  
would permit me to ask Mr. Fleck to let us have ~~xx~~ his views when  
he returns, and what does he say about pro-rating as used here on  
the facts of this case, when indeed they were ~~taught~~ allowed to state  
their own idea as to the value of the building.

Mr. Allan: Mr. Chairman, in this connection I wonder, ~~is~~  
before you answer, if I could ask if Mr. Shibley has plans to go  
into this very thoroughly by other persons here?

Mr. Shibley: Yes, I do, Mr. Allan.

Mr. Allan: Because this, I think, is an area that ~~it~~ would  
be interesting and keep us awake I'm sure.

Mr. Shibley: Mr. Allan, I do have. It was only because  
this witness had, on behalf of the Prominence office, I gather, undertaken  
a review at a critical point in time that I felt that that much  
evidence might be of interest to the committee.

Mr. Chairman: We have gone into it at some length, and  
I think, in view of the fact that we have that Mr. McCallum's  
questions should be noted, ~~and~~ I have asked Mr. Moore to gather  
up some of these questions that we have asked Mr. Fleck and try to  
summarize them and get them to him or get them to his office  
tomorrow.

Mr. Renwick: Mr. Chairman, I assume that we are going to  
be involved in this question of trying to sort out the calls at some  
point next week. I wonder whether or not before Mr. Fleck goes  
away, or <sup>perhaps</sup> Mr. Shibley directly can clarify that point with Mr. Cronyn  
about when he went away to Florida, so that we can see whether or  
not the meeting might possibly have taken place on the 6th. And  
also whether or not Mr. Shibley will have available to him before  
,





H-1026-2

(Mr. Renwick)

Mr. Fleck goes away, the data with respect to meetings between Mr. Cronyn and the Premier.

Mr. Shibley: Yes, that would be helpful if you could arrange that.

Mr. Fleck: Right.

Mr. McCallum: Mr. Chairman, may I say one further thing? (should/

Mr. Fleck: I ~~will~~ certainly be able to do the latter

part, and I will try to do the former.

Mr. Chairman: You are to be here, at least you will be in town tomorrow, will you? I don't mean in this room, but in town?

Mr. Fleck: Yes. I will be working at a few items that may have accumulated during the last few days.

Mr. McCallum: Mr. Chairman, may I say one word with respect to the base of the ~~maple~~, no the bottom of the foot?

Mr. Fleck:

~~There is somewhere in between~~ There is somewhere in between, there is no question.

Mr. Chairman: Yes, if there are any representations to counsel, ~~open~~ counsel, let's hear them.

Mr. McCallum: That's right. Well, I won't now, obviously. But it seems to me that you people in your deliberations will want to have some idea from us as to witnesses. We will want to have from you when you want them available. I understand that you are going to be discussing that sort of problem, and we have some strong representations one way or another to make, and I hope that you just won't make up your mind without giving us an opportunity to express our views. We are trying to cooperate with you throughout, but we have a great many people who are standing on tenterhooks, and are very concerned about their own lives this summer.

Mr. Chairman: That is one of the concerns that I have, too. I realize that a great many of Hydro's operations are operating with difficulty these days because so much of their talent, ~~has~~ is tied up here. That is not the only factor. So I am concerned with the protracted nature that this is getting in to, as many of the rest of us are. Some of us have personal commitments as well as



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5:55 - 6:00 pm  
CA

H-1026-3

(Mr. Chairman)

business commitments as I am sure other counsels have. So if there are any representations that any member ~~of~~ <sup>or</sup> counsel has, maybe they can get them ~~through~~ to me either tomorrow or first thing Monday morning; or sometime Monday. I think that would be time enough in a memorandum fashion. And I want this little get-together on Monday to be relaxed, <sup>for</sup> the members of committee. We, too, haven't had much time to sort of relax on this, ~~and~~ I would like to be able to present them with any figures that you have in mind, or any information that you have in mind at that meeting. So I am issuing an invitation to all counsels to give us information or any representations they want to make some time Monday and I'll put it before the members when I <sup>see</sup> ~~see~~ them on Monday night.

Mr. McCallum: Public purse on another junket.

An hon. member: Those tax-payers are going to complain.

Mr. W. Newman: So we will be meeting here Monday morning

at 10:00 a.m. right?

Mr. Chairman: 10 a.m. on Monday. Now, originally we weren't going to meet Monday morning, ~~but~~ <sup>but</sup> ~~with~~ <sup>at</sup> Mr. Allan's request, <sup>because</sup> ~~that~~ we were going to meet Monday night.

Mr. Allan: Oh, you ~~say~~

Mr. Chairman: Mr. Allan, since that time, you were away that day, we decided we would meet.

Mr. Allan: You accept my proposals until I get out the door and then you throw them ~~out~~ <sup>out</sup>.

Mr. Chairman: It just shows it is dangerous to be away, Mr. Allan. We are meeting Monday ~~at~~ at 10 o'clock, a.m.

The committee adjourned at 6 o'clock, p.m.

~~RECEIVED H-1026-3 follows~~



## APPEARANCES

### Committee members:

J.N. Allan

J.E. Bullbrook

I. Deans

Taunt

L.C. Henderson

R.G. Hodgson

W. Hodgson

J.P. MacBeth (Chairman)

W. Newman

J.A. Renwick

G.W. Walker

### Clerk of the committee:

Paul Moore

### Committee counsel:

R.E. Shibley, QC

J.P. Bell

### Ontario Hydro counsel:

Pierre Genest, QC

James McCallum, QC

### Canada Square Counsel:

Douglas Laidlaw, QC

Blair Cowper-Smith

### Chief executive officer, Office of the Premier:

J.D. Fleck





#36

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Monday, July 9, 1973

Morning session

1028-1-5



LEGISLATURE OF ONTARIO - SELECT COMMITTEE

HYDRO HEADQUARTERS

H 1028-1

July 9/73  
10:10-10:15 a.m.  
PLG

*I am a Jew.*  
Mr. Chairman: Even without Mr. Allan's count,

We have new recording equipment this morning, which I trust will work without flaws now, although I really don't have any serious complaints in the past. We have had good service from it, but as I understand it now, ~~the~~ all microphones will not be open at all times but just the ones which are in use, so that when you are speaking it might be a good idea to give them a chance to turn the microphones on or delay your opening remarks.

Now Mr. Shibley, if you are ready we will proceed with you Sir.

Mr. Shibley: I think Mr. McCallum has a statement that he wishes to make Mr. Chairman.

Mr. Chairman: Thank you. Mr. McCallum.

Mr. McCallum: I really don't have a prepared statement since the weekend was just too nice to allow for preparation, but I do have a statement that I would like to make if you will just bear with me as I do.

My statement arises out of some requests made by Mr. Shibley last week. First of all I believe it stemmed from what I think now was an error on my part. If you will look in Hansard on page 987-2 I was referring to a document that had been produced earlier in the day, dated November 9, and in referring to that document I said to Mr. Shibley... and I am quoting.

It was the first recorded work that we can find any evidence of Sir, whether ~~the~~ they were doing work earlier than that and not recording it, or the records were destroyed, we have no knowledge.

Mr. Shibley: Yes.

Yes, but to the extent that there are records within Hydro as I understand it, the first such records are as of November 9, 1972.



July 9/73  
10:10-10:15 a.m.  
PLG

(Mr. McCallum)

"Mr. McCallum: Yes Sir, you are ~~wrong~~ correct."

*A* Now, for the reasons that I am going to give you, you will see that that is inaccurate. If I may now refer you, please, to 988-2, Mr. Shibley, just about half-way down the page, asked me to make a further investigation. He did so in these words;

"Mr. Shibley: I am sure that Hydro can undertake an internal inquiry as to the lines of communication that took place on November 9, or whenever, reflecting the instructions of the Chairman to prepare the material requested by Mr. Fleck, and assist us to the extent possible.

"Mr. McCallum: Yes Sir, we have started and we will certainly be prepared to do that."

Now Mr. Chairman, acting on Mr. Shibley's request we have searched through more files and we have come up with a series of documents that I have presented to Mr. Shibley, which appear to demonstrate quite clearly that Mr. Candy was working on the preparation of the November 15 document, some time prior to the 7th of November; as will appear from these documents, that not only was he working on it himself, but other members of Hydro staff were also working on it. We have record of the fact that on the 7th of November there was work being done and had been done. On the 8th of November there were meetings with other people, that I will refer to in a moment, and as a result of that 8th of November meeting, notes were made. In particular those notes reveal that Mr. Candy ~~was~~ was telling the person who was then assisting ~~him~~ <sup>him</sup> that the Legislature was going to open on the 21st of November 1972. There ~~was~~ <sup>was</sup> then, of course, the note in handwriting of November 9 to which reference had been made and which I had thought was the earliest recorded ~~one~~ note, and which turns out not now to be the earliest recorded note, since there are some of November 7 indicating work starting before that date. The upshot of this is ~~that~~ <sup>that</sup> the evidence that I have been able to get out of the files and give to Mr. Shibley, indicates very strongly that when



July 9/73  
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PLG

Mr. Gathercole said that this was being prepared, this information was being prepared in Hydro for the purpose of answering questions as they might <sup>be</sup>merge or come up, when the House opened on the 21st of November, is very likely the ~~fact~~ fact of the matter. It may very well be therefore, that what you have heard from Mr. Fleck when he said that he had no specific recollection of whether he had made a telephone call or whether he had spoken to Mr. Gathercole directly, ~~and that he had no recollection of whether he had made a telephone call or whether he had spoken to Mr. Gathercole directly.~~ ~~conjecture that at what time he had spoken to him in~~

Tape H 1029 follows





July 9, 1973  
10.15-10.20 a.m.  
M.F.

H - 1029 - 1

(Mr. McCallum)

~~when he had made a telephone call to Mr. Gathercole~~ had  
~~spoken to Mr. Gathercole directly,~~ <sup>and</sup> he then went on to  
conjecture that it might be that he had said it to him in  
passing and that he had been told that something was being  
prepared, that may now turn out to be the fact, that these  
matters, this particular document, which in my opinion is not  
particularly responsive to Mr. Fleck's request, was being  
prepared some time previously by Hydro, and, when prepared, a  
copy was sent, not only to all the people in Hydro, which have  
been mentioned by Mr. Shibley, but in addition to that, had  
been sent to Mr. Auld, to the Premier, and a copy went to Mr.  
Fleck.

So that there appears to be some documentary evidence  
of a very concrete nature to back up the suggestion that had  
been made earlier that this was being prepared in order to  
provide information for people who would have to answer  
questions from time to time.

Now, Mr. Shibley, as you know, I have prepared a  
booklet for you of this information. We have had to do it  
on the week end and Mr. <sup>Durand</sup> ~~Swanson~~, who has rendered yeoman service  
in this, has tried to put together the whole of these documents.  
As you can see many of them don't otherwise make much sense  
except they appear to back up the sort of thing we have been  
talking about.

<sup>sir,</sup>  
You will have noticed <sup>perhaps</sup> even in the few minutes  
that you have that some of them are typewritten and are dated  
as early as November 7th, which indicate work done prior to that  
and are typed out and dated November 7th. You will observe  
that at the top of many of the pages they show in handwriting  
that they were handed to this man Van Bruggen on November 10th,  
1972, and he was the man who earlier had the meeting with Mr.



July 9, 1973  
10.15-10.20 a.m.  
M.F.

H - 1029 - 2

(Mr. McCallum)

Candy, as I have indicated to you, on the 8th of November, 1972.

I have also had prepared, if you want it, sir, copies of all of the information that I have provided to you and perhaps, if you want it, I will leave them with you and as convenience serves, you may then want to distribute to the members of the committee.

Mr. Shibley: Mr. McCallum, what I would like to ask - and I might tell the members of the committee, I have only received this material within a few minutes of Mr. McCallum making his statement - what I would like to know is this, before I embark upon the re-examination of Mr. Gathercole, can I take it that the information in question is information about which Mr. Candy is the ~~the~~ person who can best give the evidence and that Mr. Gathercole himself, although he might know the general circumstances, does not know the particulars as to the ~~changes~~ <sup>the changes</sup> between Mr. Candy and others?

Mr. McCallum: You are correct, sir.

Mr. Shibley: All right. At the moment then, what I would prefer be done is that the documents simply be left with me so that I can study this over the luncheon recess. I am a little bit concerned about the inclusion in your opening remarks of certain conclusions again.

However, I think it is correct to say that there is evidence now that the November 9th day which I might say that not only Mr. McCallum but Mr. Genest had previously given to me as the ~~the~~ earliest date on which material for the November 15th document had been discovered by Hydro, seems to be affected by a document, some handwritten notes, as for November 8th of that same year, but I have had no opportunity to examine into it.

I think what is clear is that Hydro were, for a variety of purposes, collecting information. In fact, this was



July 9, 1973  
10.15-10.20 a.m.  
M.F.

H - 1029 - 3

(Mr. Shibley)

almost on a continuing basis throughout 1972, and as each subsequent document was created, much of the information that had already been collected by reason of earlier effort, would be incorporated into the latest summary, so to speak, so that when Mr. McCallum ~~and~~ the efforts for the November 15th document were commenced earlier, that might not be an exactly correct statement in the sense that I think it is true that Hydro were collating information prior to November 9, but whether it was directed to a document such as the November 15 one, or for their purposes generally, is another question again. I would like to leave that an open question until we hear the evidence.

Mr. McCallum: Mr. Shibley, I, of course, am perfectly happy to have you leave it. Just when you are giving consideration to the answer, though, I wonder if I might direct ~~your attention particularly to the handwritten notes of Mr. Van Bruggen~~

Tape H - 1030 follows





July 9, 1973  
10.20 - 10.25 a.m.  
M.R.

(Mr. McCallum)

~~when you are giving your attention to the answer, though,~~  
~~I wonder if I might direct your attention particularly~~  
to the handwritten notes of Mr. Van Bruggen, dated  
November 8, 1972.

Mr. Shibley: Yes.

Mr. McCallum: You will see that they dealt with  
many aspects of the question concerning the head office.  
I think you will find, sir, that most, if not all, of those  
found their way into the November 15th document. I think  
that's what led me to make that suggestion. Just particularly  
perhaps, you may want to look at the final, the third page  
of that document -

Mr. Shibley: I have already scanned it, Mr. McCallum.

Mr. McCallum: Oh, fine.

Mr. Shibley: ~~and~~ what is in my mind is this, ~~at~~ the  
moment it appears that material was being prepared for  
ministers responsible to report to the House and the governing  
date of that was November 21. I notice the note on the  
document in question, "Legislature opens November 21, 1972",  
and then there is a list of what was wanted for that purpose,  
I gather.

Again, you can see the point that whereas material  
may well have been under preparation for purposes of instructing  
the responsible minister prior to November 21, ~~that~~ it's open  
to the committee to conclude that when the request came from  
Mr. Fleck that they use the self-same material to provide  
him with the memorandum of November 15~~th~~ and that the work-up  
that was being done here ~~was not done until~~ November 7 and 8  
was not for the November 15 memorandum but rather for the  
general instruction of ministers, and then when the request was  
made they decided to seize on material already under  
preparation, if you follow me.



July 9, 1973  
10.20 - 10.25 a.m.  
M.R.

(Mr. Shibley)

So it's not exactly correct to say that the work for the November 15 memorandum was undertaken on November 7 or November 8, if you follow me.

The material that found its way into that November 15 memorandum had already been under preparation for other purposes, but not for a memorandum to the Premier and Mr. Fleck.

Mr. McCallum: Yes, Mr. Shibley, it may be that the material, in fact, I believe it ~~was~~ <sup>was</sup> under preparation ~~and~~ not specifically for Mr. Fleck, but ~~that~~ my understanding is that it would be under preparation in order to advise, as you say, other people in Hydro and Mr. Auld among others.

In fact, I think you will find when you get Mr. Gathercole's evidence that he has, as I ~~has~~ suggested to you on Friday, no recollection of Mr. Fleck having asked him for this information or information of this kind at all.

Mr. Shibley: Mr. McCallum, I just wanted to make sure that you were not being misread, so to speak, when you said that ~~the documents show that the material~~ for the November 15 memorandum was being prepared as at November 7 and 8. In fact, that material was being prepared for purposes of instructing ministers generally and the governing date in the minds of the then people working on it was November 21, the date of the Legislature opening.

It is clear on the other hand that the information that already had been the subject of review, from what I've seen, ~~was found~~ found its way into the November 15 memorandum.

~~Mr. McCallum:~~ I think there is a subtle difference there but it may be an important one.

McCallum:  
~~Mr. Shibley:~~ Yes. I should make you alert then to one other aspect of the matter; in the chronology on Page 2, under date November 15, 1972, you will see written the following:



July 9, 1973  
10.20 - 10.25 a.m.  
M.R.

(Mr. McCallum)  
~~Mr. Shibley~~

"Mr. Candy receives a request from Mr. S. Toth" - he's with Hydro in PR - "to provide an informational report for the Hon. James Auld, preparatory to the opening of the Legislature. Mr. Candy was asked if he could have something for November 17, 1972, so that Mr. Auld could study it over the weekend".

Now, you will find that that was the impetus that gave it real impact and the need to stay up and work on the report at that time.

Mr. Shibley: Yes, well, as I say, I think Mr. Candy is the logical witness...

Mr. McCallum: Yes.

Mr. Shibley: ... to deal with these matters.

I'd like to recall Mr. Gathercole at this time.

Mr. Chairman: Mr. Gathercole, welcome back and as you know, you have been sworn previously.

Mr. Gathercole: I won't reciprocate those cordial feelings of invitation.

Mr. Deans: *don't like it there, do you not,* You ~~are falling apart~~ *and you*, George?

Mr. Gathercole: I'm not making a confession on that score at this moment.

~~Mr. Shibley: Mr. Gathercole, I want to discuss with you this morning the various communications of any~~



July 9, 1973  
10.25 to 10.30 am  
fvk

Mr. Shibley:

Mr. Gathercole I want to discuss with you this morning the various communications of any kind that you held with representatives of government referable to the head office building. As I understand the evidence of Mr. Fleck, the first occasion on which there was any communication between yourself and anyone in the Premier's office, was at the time of the Pickering plant opening. Is that correct?

Mr. Gathercole: No, that is not correct. There was a previous occasion on which I had broached the subject to the Premier. It was on the date of June 30. It happened to be at a reception, actually it was a barbecue; or it was in August, at another affair, <sup>at</sup> which I had very briefly indicated to the Premier that we had been stalled in proceeding with our head office building for two or three years and we had an increasing problem in undertaking rented space and that we should like to get ahead with it.

At that time he indicated that he was aware of the problem and expressed some sympathy for our position. That is in evidence which I had given before.

Mr. Shibley: When was that, Mr. Gathercole?

Mr. Gathercole: It was <sup>on</sup> either <sup>of</sup> the two days I can think of. It was either on June 30 or in August of 1971. That was the first occasion.

Mr. Shibley: So that you mentioned <sup>it</sup> to him only incidentally in the course of some kind of a reception in mid-1971 and he indicated he was sympathetic, you say, to the problems that you were mentioning?


Mr. Gathercole: Yes.

Mr. Shibley: When was the next contact? By the way, as I go through now, I want whatever communications you had ~~with~~ with anyone on government's side referable to the head office. Was this the first time you had spoken to anyone on the side of government respecting the resur<sup>r</sup>rection of the plans for the head office?





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10.25 to 10.30 am  
fvk

Mr. Gathercole: I believe it was, although from time to time I had indicated to the hon. George Kerr, who was then Minister of the ~~ma~~ Environment and reporting in the Legislature on behalf of Hydro, that we were facing an increasing problem in acquiring space, and diseconomies in relation to providing that space for our staff and that we were anxious to ~~be~~ get ahead with the building. *We had* 

Mr. Shibley: All right.

Mr. Gathercole: Sorry.

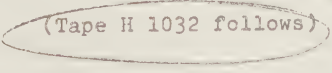
Mr. Shibley: Just going back then to the first time you mentioned it to the Premier. You've mentioned June 30 or August. This would be subsequent, in point of time, to the attendances ~~Witbeck~~ of Mr. Candy, Mr. Sissons and Mr. ~~Witbeck~~ Witbeck, I believe, at the OISE building, and subsequent to Mr. Candy's ~~a~~ attendance at Mr. Moog's office to discuss the matter with him. Is that correct?


Mr. Gathercole: Yes, I believe that is so.

Mr. Shibley: Did you make any mention to the Premier during the course of your June or August, 1971, discussions with him that communication had been established, so to speak, with Mr. Moog?

Mr. Gathercole: How do you remember the conversations of a year and a half or two years ago? But I do feel that it would be natural that I had indicated that our people had visited the OISE building but I have no direct recollection during that period of time that I had advised him of that.

Mr. Shibley: What I want to know, really, is was it any part of the conversation between yourself and the Premier in the summer of 1971 ~~2~~

  
(Tape H 1032 follows)





July 9, 1973  
10.30-10.35 am  
V.H.

(Mr. Shibley)

~~the conversation between yourself and the Premier in the summer of 1971~~ that Mr. Candy had established communications with Mr. Moog and was discussing ~~the~~ plans for the head office building with him?

Mr. Gathercole: No, there was nothing of that.

Mr. Shibley: To what extent, if any, was there any communication from you to the Premier as to the status of Hydro's dealings with Mr. Moog at that time?

Mr. Gathercole: I communicated nothing of any relationship of Mr. Candy or any member of Hydro with Canada Square other than I might ~~have~~ conceivable have observed that Mr. Candy and others may have looked at the OISE building, as a possibility.

Mr. Shibley: I see. Was there any mention made that Mr. Candy had spoken to Mr. Moog?

Mr. Gathercole: No. Not that I am aware of.

Mr. Shibley: Or any mention made that OISE had provided the documentation employed at the OISE building?

Mr. Gathercole: Absolutely not. I wasn't aware of it myself.

Mr. Shibley: So that in its totality then, the only element of that discussion with the Premier which related to your <sup>p</sup>ending dealings with Canada Square was simply that some of your people had been to see the OISE building and examined it? Is that correct?

Mr. Gathercole: Yes, and I want to make very, very clear <sup>that</sup> I have no recollection of saying they visited there. I have no recollection. I said that, you know, it <sup>seem</sup>ed to be a natural thing to make that observation but I have absolutely no recollection that I advised him that. There were other people around and I just had this very vague recollection that I raised the question with him about us getting ahead with the building, and he expressed some understanding of our predicament and the frustration we felt.



July 9, 1973  
10.30-10.35 am  
V.H.

Mr. Shibley: Were the other people Hydro people?

Mr. Gathercole: No, they were not. They were not.

Mr. Shibley: Were they government people?

Mr. Gathercole: Well, there was a variety of government and other people as well.

Mr. Shibley: Well, can you assist us as to who participated in that discussion?

Mr. Gathercole: There was no-one there at the time <sup>there</sup> but <sup>there</sup> were other people who would then come <sup>cu</sup>.

Mr. Shibley: All right. I understand.

Mr. Gathercole: ... and ~~the~~ greet the Premier.

Mr. Shibley: Then, when was the next occasion ...

Mr. Renwick: Mr. Chairman, just before you go on?

Mr. Chairman: Mr. Renwick.

Mr. Renwick: Do you recall, was this a reception or was it a barbecue?

Mr. Gathercole: Well, the June 30 was a barbecue.

Mr. Renwick: Would it assist you in any way in aiding your recollection of whether you made any comment about the OISE building if I drew to your attention that my understanding was that you yourself had been to the OISE building by that time? I believe ~~the~~ <sup>June</sup> late in ~~the~~ or early in July of 1971?

Mr. Gathercole: No. Actually Mr. Renwick, this is the problem that I have. I wasn't. I didn't visit the OISE building until July 7.

Mr. Renwick: July 7?

Mr. Gathercole: I think it was July 7 or 11. July 11, sometime after that.

Mr. Renwick: But if your conversation took place with the Premier in August, you might very well have mentioned to him. Does that assist you in recalling whether you did or did not mention to him?





H-1032-3

July 9, 1973  
10.30-10.35 am  
V.H.

Mr. Gathercole: Well, let's <sup>see</sup> ~~see~~, I did <sup>n't</sup> ~~mention~~

to him that I had visited there.

Mr. Shibley: Did you say you did mention it?

Mr. McCallum: No.

Mr. Gathercole: I did not.

Mr. Shibley: You did not?


Mr. Gathercole: That's my ~~re~~ recollection.

Mr. Renwick: Thank you Mr. Chairman.

Mr. Shibley: Mr. Gathercole, would you then tell

us the next occasion on which you had any communication with anyone in the Premier's office or anyone on the part of government referable to the head office?

Mr. Gathercole: Well, the next connection was at the opening of the Pickering generating station <sup>at</sup> ~~which~~ the Premier presided, and at that time I advised him that we were studying several proposals, that we had received, concerning the head office administration buildings, ~~and on~~ <sup>and</sup> on that occasion, he said "Well, ~~you are going to~~ I understand you are going on a trip with Mr. McKeough and perhaps you could discuss ~~it~~ ..."



H-1033 follows



July 9/73  
10:35-10:40 a.m.  
PLG

(Mr. Gathercole)

~~and Mr. Gathercole, I am just pinpointing areas which have been referenced by other witnesses since Mr. Gathercole gave his last testimony, and I want to be clear now what was said by this witness to the Premier and the Premier to him, and similarly with other conversations that have cropped up. I don't intend to rehash material already covered unnecessarily. I think you will see where I am going as we get along, Mr. McCallum.~~  
~~and perhaps you can discuss the financing with him then. Did he say anything else to you?~~

the financing of the building with him when you are on that trip"; which I did, and that was the only thing that was said at that time.

Mr. McCallum: Excuse me, Mr. Chairman: I wonder, is it your intention Mr. Shibley, ~~to go on in taking~~ Mr. Gathercole through these meetings to get him to repeat substantially the evidence that he has been through before, Sir, or rather just that you we want to get ~~at~~ his *chronology*?

Mr. Shibley: I am just pinpointing areas which have been referenced by other witnesses since Mr. Gathercole gave his last testimony, and I want to be clear now what was said by this witness to the Premier and the Premier to him, and similarly with other conversations that have cropped up. I don't intend to rehash material already covered unnecessarily. I think you will see where I am going as we get along, Mr. McCallum.

Mr. McCallum: Thank you Sir.

Mr. Shibley: Now I want you to be as precise as you can however, Mr. Gathercole, as to the topics that were ~~discussed~~ discussed between the Premier and yourself at Pickering, and I realize the ~~informal~~ informality of the occasion. You have said that he told you you will be going on a trip with ~~McKeough~~ McKeough, and perhaps you can discuss the financing with him then. Did he say anything else to you?

Mr. Gathercole: No, that was it.

Mr. Shibley: Did he discuss any aspects of the financing with you at that time?

Mr. Gathercole: None whatsoever.

Mr. Shibley: None whatsoever?

Mr. Gathercole: No.

Mr. Shibley: I want to read to you a statement made



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10:35-10:40 a.m.  
PLG

(Mr. Shibley)

by the Premier in the House, as found in Hansard on November 21, 1972, page 4709, wherein Mr. Davis said:

~~Mr.~~ "Mr. Speaker, the question of the new facility for Hydro really was never dealt with by Cabinet. It is not a matter of Cabinet decision. The Chairman of Hydro suggested to me some months ago that they wished to proceed with their new facility. It has been on the ~~table~~ drawing boards or under consideration I believe since '67 or '68. I indicated at that time that in my view, whatever was done should not influence the capital situation. I understand that Hydro have gone ahead on the basis that it does not require them to borrow and as a result it has not affected the capital situation."

Now Mr. Gathercole. Mr. Fleck, when I asked him what it meant ~~with respect to~~ when the Premier said that the "Chairman of Hydro suggested to me some months ago that they wished to proceed," he referenced the Pickering meeting as being some months ago.

Mr. Gathercole: Yes.

Mr. Shibley: You heard ~~him~~ him say that?

Mr. Gathercole: Yes I did.

Mr. Shibley: I gather in fact that you had indicated to the Premier, and again no inference is intended, but it may well be that Mr. Fleck didn't realize and even others may have forgotten, but in fact, you had indicated in the summer of '71 that you wanted to proceed with the new facility. Isn't that so?

Mr. Gathercole: Yes.

Mr. Shibley: So that....

Mr. Gathercole: It was just an aside, which ~~no~~ no one probably recollected, but it did occur.

Mr. Shibley: And then again you made it known to the Premier in February of '72 that you were anxious to proceed. Is that correct?

Mr. Gathercole: Yes.



H 1033-3

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10:35-10:40 a.m.  
PLG

Mr. Shibley: So that, to be fair to the Premier, when he made this statement in the House, that you had suggested to him some months previously, he might well have been thinking of the Pickering discussion with you and had not ~~thought~~ of the-- ~~the~~ the discussion with you in the summer of '71 to which you have adverted this morning?

Mr. Gathercole: Yes. I am sure that would be the case. I mean that stems back ~~in~~ two years ago.

Mr. Shibley: All right, but the fact of the matter is that as ~~at~~ at November 21, you had already indicated to the Premier one year and five months earlier your wishes to get on with this building.

Mr. Gathercole: Mr. Shibley, I am not following the dates ~~that~~ that you are ~~talking~~ *implying*.


Mr. Shibley: I am taking it that in June or August of '71 you told the Premier...

Mr. Gathercole: Yes, that's true.

Mr. Shibley: So we have got to take it that when the Premier was making this answer in the House, he had the Pickering discussion in mind and had overlooked...

Mr. Gathercole: Exactly...

Tape H 1034 follows







July 9, 1973  
10.40-10.45 am  
V.H.

(Mr. Shibley)

~~When the Premier was making this answer in the House, he had the Pioneering discussion in mind ...~~

~~Mr. Gathercole: Exactly~~

Mr. Shibley: ... ~~and had continued~~ the earlier discussion of the summer of 1971?

Mr. Gathercole: ~~Which was~~ <sup>that</sup> sort of a nebulous thing, you know, just an expression that I had made <sup>that</sup> we ought to get ahead with this building which had been stalled and delayed.

Mr. Shibley: All right. But then it also goes on in Hansard:

"I indicated at that time that in my view, whatever was done, should not influence the capital situation."

Now, Mr. Gathercole, you have this morning said that you did not discuss the financing with him in any manner whatsoever. And yet from this statement, it indicates that the Premier indicated to you at that time, and I am taking it for the reasons already indicated, at that time means at the time of the Pickering discussion, that in his view, whatever was done should not influence the capital situation.

Mr. Gathercole: That had been, Mr. Shibley, pretty much the policy of the Treasury department.

Mr. Shibley: I am sorry, Mr. Gathercole, I am not going to let ~~this~~ <sup>you</sup> go on because we <sup>I</sup> get off the track. What I am concerned about now is that your evidence this morning has ~~been~~ <sup>has</sup> been to this point that the Premier said "you are going on a trip with ~~Darry~~ <sup>Darry</sup> McKeough, perhaps you can discuss financing with him at that time." Then I asked you, "Did you discuss the matter of financing further with him?" And you said, "No, not whatsoever." Now I am concerned to know what the Premier meant when he reported to the House, or when he made this statement in the House, that he had indicated "at that time" and it maybe the time <sup>is</sup> ~~is~~ is wrong. Is it possible ~~any~~?

Mr. Gathercole: No. No. ~~any~~

Mr. Shibley: ~~he's~~ he's talking about a different time?



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Mr. Gathercole: No. I'm sure he's talking, Mr. Shibley, <sup>about</sup> ~~with~~ exactly the same time but he was saying, "George, speak to Mr. McKeough about the financing of the building, having regard to whether it is policy to finance it by way of lease-purchase or finance it <sup>out of</sup> ~~through~~ our own bonds or debentures." Its the same subject <sup>to</sup> ~~in~~ my mind.

MR. Shibley: I realize, Mr. Gathercole, but now you have added something to your earlier evidence. Was there a discussion as to whether this building should be financed by lease-purchase or in the ordinary capital structuring of the building of a head office?

Mr. Gathercole: <sup>With</sup> Mr. McKeough, yes.

Mr. Shibley: No. No. With the Premier?

Mr. Gathercole: Not with Mr. Davis, no.

Mr. Shibley: Then I come back to the statement in Hansard, Mr. Gathercole, what did the Premier mean when he said he had indicated, "I gathered, to you, <sup>at</sup> ~~at~~ that time," and I gather that means at the time of the Pickering meeting, "that in my view," that's the Premier's view, "whatever was done should not influence the capital situation."

Mr. McCallum: No.

Mr. Shibley: Am I missing something?

Mr. McCallum: Excuse me, you may be missing something but, sir, I don't think with respect that it will be helpful to ask Mr. Gathercole what the Premier meant by something the Premier is reported to have said in Hansard. I wonder first of all when you look at Hansard if the question is appropriate. As I read the question, it says this; now let me read you the full sentence, he says:

"Hon. Mr. Davis: The chairman of Hydro suggested to me some months ago that they wished to proceed with their new facility <sup>it</sup> ~~it~~ has been on the drawing boards or under consideration, I <sup>think</sup> ~~believe~~, since 1967 or 1968, I indicated at that time ..."

Now it is difficult to tell what time he is referring to, as I read the sentence, <sup>Now</sup> ~~Now~~, ~~only have~~ I don't have what



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(Mr. McCallum)  
~~XXXXXXXXXXXX~~

you have. I don't have any punctuation in mine.

Mr. Shibley: Oh, please, Mr. McCallum, you are not suggesting that when the Premier ...

Mr. McCallum: I am not suggesting ...

Mr. Shibley: ... made the statement, he was referring <sup>to</sup> at that time, 1967 or 1968.

Mr. McCallum: Mr. Shibley, I am making only one suggestion to you, sir; ~~and~~ I opened by making that suggestion and I was ~~and~~ after that trying to be helpful. The only suggestion I was making to you was that it wouldn't be helpful to the committee to ask Mr. Gathercole what the Premier meant by something the Premier said.

Mr. Shibley: I am not asking him what the Premier meant, I am ...

Mr. McCallum: I understood you were.

Mr. Shibley: ... asking about what the Premier said.

~~He~~ He opened his evidence this morning <sup>and</sup> Mr. Gathercole, I ~~am trying to take you along as easily as I can in this respect.~~ I asked you after the Premier told you that you would be going on this trip with Mr. McKeough and perhaps you could discuss the financing with him then, I then said, "Was anything more said about the financing?" and your answer was "Nothing whatsoever." Do you remember saying that?

Mr. Gathercole: Yes, I do, but --

Mr. Shibley: What I am having difficulty with at the moment <sup>is</sup> and I would like your help, as to what if anything was said by the Premier to you on the occasion





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(Mr. Shibley)

~~... said by the Premier to you on the occasion of the discussion at Pickering, which would reflect what he said to the House on November 21, 1972, when he indicated, at that time, that in his view whatever was done should not influence the capital situation?~~

Mr. Gathercole: Mr. Shibley, I don't recall him making the observation that it should not affect the capital position of the province, because ~~when~~ this had been, to a degree, established policy and I was seeking only, in my conversation with Mr. McKeough, to confirm whether it was.

Mr. Shibley: Mr. Gathercole, I'm quite prepared to accept any answer you want to give me as to whether you recollect, or not; but what does concern me is to get your evidence a matter of record as to exactly what was discussed between you and Premier Davis in February, 1972, <sup>accepting</sup> ~~stating~~ that that was the occasion to which he was making reference. Mr. Fleck concluded that it had to be Pickering and I think that's your own conclusion as well?

Mr. Gathercole: Exactly.

Mr. Shibley: Unless that date is wrong or the occasion is wrong —

Mr. Gathercole: No, the date isn't, ~~nor~~ the occasion is not wrong.

Mr. Shibley: Okay! If we are agreed on that then I want to know what discussion, or what comment, the Premier made to you, on that occasion, referable to your undertaking the project in a manner which would not influence the capital situation.

Mr. Gathercole: As I have said, Mr. Shibley, my recollection of the conversation was, "You are going on the trip with the Treasurer. Discuss the matter of financing with him." But implied in that was the question, the vital question is whether we should ~~discuss~~ <sup>finance</sup> this ~~trip~~ <sup>new building</sup> out



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of the bonds which we would issue through the traditional channels or, whether we should go the ~~lease~~<sup>lease</sup> purchase route, and nothing more than that. It was something that was understood.

Mr. Shibley: Mr. Gathercole, you say implied in that. ~~that~~ Had you told the Premier, on that occasion, that you were considering the lease-purchase route?

Mr. Gathercole: I said we were receiving and we were reviewing proposals made ~~a~~ by a number of developers.

Mr. Shibley: All right. You told him that?

Mr. Gathercole: Yes.

Mr. Shibley: And did you tell him then that one of the developers was Canada Square?

Mr. Gathercole: I mentioned no developers specifically.

Mr. Shibley: You had already received Mr. Candy's memorandum of February 1, 1972, wherein he recommended dealing with Canada ~~Star~~ Square?

Mr. Gathercole: Yes.

Mr. Shibley: And notwithstanding that you had that memorandum in hand <sup>as</sup> at the time of the Pickering discussion with the Premier, you ~~said~~ you did not indicate to him that, having dealt with four developers, Canada Square was the one being recommended by the commission architects?

Mr. Gathercole: I didn't advise him of that. I was just trying to recollect some of the dates that are involved in here and that's the reason for my hesitation.

I didn't know what the situation was other than we had received a number of proposals from various developers and that's the message which I ~~related~~<sup>related</sup> to him which were being reviewed. It wasn't until April 10, I believe, which was after that event, that I had read the analysis made by the financial people. I think that was the Mink-Candy Report, as I recall it. Am I right?

Mr. Shibley: Well, there was such a report on April 10 but there was also a report of Mr. Candy dated ~~February~~ February 1. I'll get it for you if it becomes important.



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(Mr. Shibley)

~~Was~~ The point I want to know at the moment is that I gather, then, you did discuss with the Premier, in February, 1972, that you were ~~and~~ considering a lease-purchase type transaction?

Mr. Gathercole: Yes. I just mentioned this to him. ~~had~~ We ~~received~~, ~~by~~ <sup>were</sup> my words, we ~~received~~ <sup>had</sup> a number of proposals and Mr. Candy ~~for~~ something of that sort ~~was~~ ~~xxxx~~ reviewing them.

Mr. Shibley: Yes. And you <sup>did</sup> discuss with him the fact, as you've just mentioned, that in addition to the considering of a lease-purchase that you had actually been dealing with four developers towards that end?

Mr. Gathercole: I think my words were: "A number of developers."

Mr. Shibley: All right, a number of developers. Then, of course, with that kind of communication from you to him, his ~~statement~~ statement in the House would have, as its foundation, the information you were providing to him at that time. I'm talking about ~~the~~ the information you provided him in February, which, would be the basis of his making the statement in the House.

~~Didn't tell you that?~~

(Tape H-1036 follows)



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(Mr. Shibley)

~~in February would be the basis of his making the statement~~  
~~in the House, and~~ Did he tell you then, in response, that  
in his view whatever you did in terms of building this  
building, it should not influence the capital situation?

Mr. Gathercole: As I have said, Mr. Shibley, I don't  
recall him specifically saying that, but that was at the root  
of his suggestion that I discussed <sup>the matter</sup> whether we went the  
lease-purchase route or financed it over our own bonds with  
the Treasurer, and the previous policy had been lease-purchase.  
It was a check-out, a confirmation.

Mr. Shibley: Right. Mr. Gathercole, was what the  
Premier said to you in February of 1972 a further consideration  
in the thinking of yourself and Hydro personnel that you should  
go the lease-purchase route because it would not influence the  
capital situation?

Mr. McCallum: ~~Answered~~ Mr. Shibley, I wonder - it might  
be helpful to have his answer, but I thought that he had said  
earlier that he didn't recall the Premier saying to him it  
should not affect the capital situation.

How then can he be helped from that point on by the  
fact that the Premier said it or didn't say it?

Mr. Shibley: Mr. McCallum, I am going on the basis  
that when the Premier reported as he did to the House in this  
manner that everything he said was completely accurate and  
correct, and on that footing I am predicating the question to  
Mr. Gathercole that I have just put.

Now if Mr. Gathercole says that nothing the Premier  
said to him on that occasion influenced their thinking in terms  
of lease-purchase, I will accept that as his evidence.

On the other hand, it does appear that there was a  
conversation between the Chairman and the Premier in February  
of '72, wherein the Premier himself made it clear to Hydro that





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(Mr. Shibley)

whatever they did, they were not to affect the capital situation.

Now, if Mr. Gathercole cannot remember that and says that in any event if he did say it, it was not a circumstance which I ~~insure~~ <sup>relayed</sup> to others and influenced their thinking, we have to take his evidence as being that; but I do feel it is important to find out whether anything the Premier said in February of '72 was influencing the decision-making process of Hydro at this very important period of time.

Mr. McCallum: Sir, I agree with you and nothing I say is trying to take away from that. I just thought as a matter of logic that the question that you had asked was making it difficult. It may very well be, for instance, that the way you ~~put~~ <sup>asked</sup> it now will ~~mislead~~ the witness, ~~instead of~~ <sup>as he</sup> was asked, or rather he said he couldn't recall the Premier saying these words: "It should not affect the capital situation".

It may very well be ~~misleading~~ <sup>as you are now</sup> suggesting, that something he had said would influence this man.

Mr. Chairman: Mr. McCallum, as I understand it, ~~he~~ <sup>he</sup> also indicated that when the Premier suggested he should talk it over with the Treasurer he knew by inference what he was to talk about. In other words it was the capital situation.

Mr. Gathercole: Very definitely.

Mr. McCallum: Yes, sir, that was true.

Mr. Shibley: Did I hear you say "very definitely"?

Mr. Gathercole: Yes. I mean the Premier may have expressed the point of view that in effect <sup>to</sup> discuss it with the Treasurer and confirm what his views are concerning the method of financing; and this is what I have said before.

Mr. Shibley: Can you help us at all as to what capital situation was meant when this statement was made by the Premier? ~~Was it the capital situation?~~



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(Mr. Shibley)

~~...that capital situation was more than the statement  
was made by the Premier.~~

Was it the capital situation of  
Hydro or the capital situation of the province?

Mr. Gathercole: I think the two are interrelated,  
are integrated. You can't divorce the position of Ontario  
Hydro's debt from the debt of the province and so the two  
must be integrated and this is one of the principles upon  
which the government has made very clear that there has to  
be co-ordination of borrowing and of debt creation instruments.  
So I would say that a person who talks about Hydro's indebtedness  
must have regard also to the debt of the province which  
guarantees Hydro's bonds in the New York market, indeed  
borrows directly for Ontario Hydro, but on the other hand,  
they are two different assets. There is a relationship  
but it also has attributes of their being separate entities.

Mr. Shibley: All right. Well, Mr. Gathercole, then,  
leaving the Pickering discussion; I want to move along to what  
was your next contact with anyone in the Premier's office  
or anyone in government referable to the head office.

Mr. W. Newman: Mr. Chairman, before you go to that,  
on the Pickering situation, I was there that day; I didn't  
hear any discussions, I can assure you, Mr. Chairman, but  
Mr. Gathercole has said that he can actually remember exactly  
what the Premier said, I don't believe - if I remember correctly -  
when the Premier arrived, went to the reception area, went  
to the platform, went and uncovered the plaque, then he left,  
that there was really any great time for any discussion any  
time with you and the Premier, was there? Was it just in  
a passing situation?

Mr. Gathercole: Yes, it was.



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( Mr. W. Newman: Because I remember when the Premier arrived I was there during the whole ceremony, I was on the platform and I really think that there wasn't ~~any~~ sufficient time for any great discussion of any kind, was there?

Mr. Gathercole: No.

Mr. W. Newman: There was really no great discussion, with you?

Mr. Gathercole: No.

Mr. W. Newman: There was no opportunity.

Mr. Gathercole: No.

Mr. W. Newman: Fine.

Mr. Bullbrook: I'm wondering if you would mind asking a question - or permit me to direct it, ~~and I want~~ and I want Mr. McCallum to interrupt me if he would, if I phrase this question improperly - I accept ~~that~~ your evidence to be this morning that you can't recall directly the discussion of the capital situation by the Premier <sup>to</sup> you but that you inferred since he wanted ~~you~~ you to deal with the Treasurer, that there was a logical implication in that, that he was concerned about the capital situation

Mr. Gathercole: I knew

Mr. Bullbrook: ...which is consistent and I think we all agree, with what the Premier told the House. I wanted to get the one question that I think counsel might entertain and that is, did you discuss with anybody ~~subsequently~~ your ~~discuss~~ discussion with the Premier that he was interested in the capital situation? Did you convey that to Hydro people at all?

Mr. Gathercole: No.

Mr. Bullbrook: All right, fine. I think you feel that that is an appropriate question.

Mr. Gathercole: Other than I make just one addendum to that, that it would be reflection of the government's policy, that this was the government policy





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Mr. Bullbrook: Yes.

Mr. Gathercole: ...which ~~is~~ normally in this area would be enunciated through the Treasurer's Department.

Mr. Bullbrook: Well, within the perview of our responsibility, I think our counsel has attempted to elicit from you an explanation which is given. I accept it's <sup>counsel</sup> consistent but our ~~xxxxx~~ will now discuss the question of discussions with the Treasurer but we now have it on the record that you didn't convey even the inference received from the Premier to anybody else on Hydro?

Mr. Gathercole: Not from the Premier.

Mr. Bullbrook: Right

Mr. Shibley: Now, then, Mr. Gathercole, that opening at Pickering took place on what day in February?

Mr. Gathercole: 25th, I believe.

Mr. Shibley: 25th, and on March 9, I ~~am~~ believe, you made a memorandum which is Exhibit 34, requesting that a submission be prepared - I've asked that that document be put in front of you - you notice the second paragraph is what I want - you can skip the first

"At present I understand that Mr. Candy is assembling proposals from a number of prospective developers and I should like to make a submission to the Premier and other ~~on members~~ of Cabinet early in ~~the~~ the



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(Mr. Shibley)

~~I should like to have a discussion with the Premier and other~~  
members of Cabinet early in April." Now when you issued that memorandum, did you have in mind the fact that the Premier was sympathetic, as you indicated, to Hydro's needs for a new head office building as indicated in the February Pickering discussion?

Mr. Gathercole: Yes.

Mr. Shibley: And can I take it that because you hadn't received a negative attitude, if you like, at that time, you felt it appropriate to move forward with the preparation of material for consideration by the Premier and Cabinet. Is that correct?

Mr. Gathercole: That is correct.

Mr. Shibley: And that is why you issued the memorandum of March 9?

Mr. Gathercole: Yes, that was an idea I had at that time.

Mr. Shibley: That's right. Now then I take it also that the April 10, 1972, memorandum which is the in-depth review prepared by Mr. Candy and Mr. Mink, was the net product of this directive from yourself to Mr. Sissons, and through him, to Hydro staff?

Mr. Gathercole: Well I would say it was one of the vehicles <sup>through which</sup> which we were seeking to coalesce a good deal of thinking about the building and how we might get on with it.

Mr. Shibley: Well it was one, but was it not the major documentation of all the thinking that had gone into this project by various Hydro people?

Mr. Gathercole: You mean the April 10th one?

Mr. Shibley: Yes.

Mr. Gathercole: Yes, up to that time, yes.



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Mr. Shibley: It is a very comprehensive document, Mr. Gathercole, and it smacks of the type of document you would be proud to present to the Cabinet if it reached that point.

Mr. Gathercole: It was an in-house type of document which certainly wasn't the last word. I mean, Mr. Shibley, you wouldn't -----

Mr. Shibley: We've never seen anything which was the last word, Mr. Gathercole.

Mr. Gathercole: No, well I looked at the April 10th document myself. It is a research piece which had channelled into one memorandum a number of analyses that were going on and which was a crystaliz<sup>i</sup>ation of the thought up to that particular time, but I didn't think it was the final document. I thought it was just one along the road, but the most comprehensive at that time.

Mr. Shibley: What I am anxious to know, Mr. Gathercole, is whether the April 10 document was the submission intended for the Premier and Cabinet; even though I gather it never did reach Cabinet; I want to know whether that was what was intended for it.

Mr. Gathercole: No, it wasn't. *ABSOLUTELY NOT.*

Mr. Shibley: Did you ever have such a submission in hand or completed by anyone in Hydro as per your instructions?

Mr. Gathercole: No.

Mr. Shibley: Are you telling me that the instruction of March 9 was ignored?

Mr. Gathercole: No, I am not saying that at all.

Mr. Shibley: Well then what submission, if any, was ----

Mr. Gathercole: All I am saying is that this was a document along the road of the preparation of other information and that we didn't reach any final state on this, where a submission was made.

Mr. Shibley: So that your evidence is that not only



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(Mr. Shibley)

was a submission not made to Cabinet, but no submission was ever prepared by Hydro for Cabinet in accordance with your March 9 memo?

MR. Gathercole: Not in that form, no.

Mr. Shibley: All right.

Mr. Bullbrook: I am lost there. I am really lost on that.

Mr. Renwick: Mr. Chairman, it sounds almost incredible to me.

Mr. Chairman: Do either one of you wish to pick up the questions or do you wish Mr. Shibley to review something?

Mr. Bullbrook: Let me say this, Mr. Gathercole, I don't think - and I say this most, most respectfully - don't read anything into Mr. Shibley's questions. I am not sure you are doing that and bear with me but really I took it as a matter of course ~~that that particular messenger must have~~

Tape H - 1039 follows





H 1030-1

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11:05-11:10 pm  
PLG

(Mr. Bullbrook)

~~Mr. Shillineau: I received it on July 9th and I have since then.~~  
~~and been with me but really I took it as a matter of course~~  
that that particular memorandum must have -- I thought it was patently obvious that that was going to be at least the foundation for the submission to Cabinet. ~~and~~ I just can't understand what other impetus was there for the ~~xx~~ preparation of that? I thought it would be natural that that would be it, Mr. Gathercole.

Mr. Gathercole: Well, for our own advice...and the ~~advice~~ advice of the Commission.

Mr. Bullbrook: But help me ~~xxx~~ with this, sir. It seemed logical to me that you, as Chairman, when you tell senior administration that you are contemplating preparing something for Cabinet, and this results, that surely that is part of the -- it really wasn't entirely ~~xxx~~ in-house. There had to be some out-house there and don't -- ~~xxx~~ sorry I said that.

Mr. Gathercole: Well, Mr. Bullbrook, there wasn't.

Mr. Bullbrook: That didn't in any way form the foundation for ~~xxx~~

Mr. Gathercole:

Mr. Bullbrook: ~~xxx~~ was not responsive to your requests?

Mr. Gathercole: Well, let me put it this way. I thought it was a very important ~~and~~ comprehensive document, Mr. Bullbrook, but I didn't think it was really, ~~as~~ you know, the final documentation of it, ~~that~~ there would be subsequent reports, But it wasn't submitted to the Cabinet.

Mr. Bullbrook: No, I realize that, and I am not for one moment-- the only thing is I get the response now to our counsel that this really had nothing to do in response to your request for the ~~xx~~ preparation of something for submission to the Cabinet. Surely that must have -- wouldn't that have formed part of the ultimate submission? I am not suggesting that's in the form or the content that you would want to have, but isn't it



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PLG

Mr. Bullbrook

logical that it would have formed part of the submission?

Mr. Gathercole: Well, Mr. Bullbrook, the decision was the Commission's to make as to whether to proceed with the building, and ~~we~~ we weren't required to make a submission to the government on it. Now, you were pinning your question upon this memorandum which I had sent to Mr. Sissons, saying that maybe we can get together, or we should get together some material and I should like to make a submission to the Premier and other members of the Cabinet later on. However, we didn't do so.

Mr. Bullbrook: I don't really think it is that important. I don't want to waste that much time on it but

Mr. Gathercole: We didn't do so.

Mr. Bullbrook: No, I know you didn't do so.

Mr. Shibley: Was the April 10 memorandum ever employed for purposes of discussion between Hydro and representatives of government?

Mr. Gathercole: No. Not that I am aware of.

Mr. Shibley: And again, I think we are all gun-shy as a result of things that have happened to this point, but I must ask you to refresh your ~~memory~~ <sup>recollection</sup> in that respect, Mr. Gathercole, by your own earlier testimony that you had the April 10 memorandum with you when you went on your trip to Japan with Mr. McKeough.

Mr. Gathercole: Yes, but my testimony was this ~~and~~ which is the truth: that I discussed the April 10 report with Mr. Milan ~~van~~ Nastich, but I did not discuss this report with Mr. McKeough.

Mr. Shibley: Well Mr. Gathercole, I want to be precise on this. At Hansard 207, page 1, May 31, afternoon session: that is 207 page 1, afternoon session, and here are your words:

Mr. Gathercole: During the trip that we, Mr.



H 1039-3

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PLG

(Mr. Shibley)

Nastich and I-- I will wait till you get the transcript.

You see towards the bottom of the page?

"During the trip that we, Mr. Nastich and I, took to ~~in~~ Japan with the Treasurer of the Province, at that time I took away with me a copy of the April 10 report, which is very favourably disposed towards the lease-purchase type ~~of~~ of arrangement.

Tape H 1040 follows





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fvk

(Mr. Shibley)

~~... report which is very favourably disposed towards the~~  
~~lease-purchase type of arrangement.~~ We had a considerable  
discussion of it at that time and, in general, I discerned  
from his remarks" —

Milan

Mr. Gathercole: Mr. Nastich's remarks.

Deans:

Mr. ~~Shibley~~ Would you read on, please?

Mr. Shibley: " — and in general, I discerned from his  
remarks" — You're saying that you ~~was~~ intended <sup>is</sup> reference

Mr. Nastich?

Mr. Gathercole: *Very definitely.*  
Exactly.

Mr. Shibley: And not Mr. McKeough?

Mr. Gathercole: Yes. I did not discuss the April 10  
report.

Mr. Shibley: I'll just read it right through. "I  
discerned from his remarks that, while there were one or two  
places, you know, which he thought he might have reservations,  
he thought it was a very comprehensive and a good report.

Subsequent to that, he did write" —

and, of course, that would be Nastich" —

"I believe, a memorandum to Mr. Dean raising some of these  
questions. Mr. Dean prepared a report which was in response  
to these questions which I discussed with Mr. Dean subsequently."

I'm sorry, Mr. Gathercole, I took your first part of your  
answer to mean — ~~you say~~ you said: "During the trip ~~and~~ that we,  
Mr. Nastich and I, took to Japan with the Treasurer of the  
province at that time, I took away with me a copy of the April  
10 report. We had quite a considerable discussion of it at  
that time."

*that*  
I thought the "we" was ~~an~~ inclusive, <sup>the</sup> "we" included in  
the Treasurer.

Mr. Gathercole: No, I'm sorry, it did not.

Mr. McCallum: Mr. Shibley —

Mr. Shibley: Let me clear it up, please, Mr. ~~McCallum~~ McCallum.

Mr. McCallum: Well, it's —



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~~Mr. Shibley~~  
Mr. Shibley: You're saying, then, that the "we" related to discussion only as between yourself and Nastich referable to the April 10 report?

Mr. Gathercole: That's right.

Mr. Shibley: And that Mr. McKeough was no part of that discussion.

Mr. Gathercole: No, he was not. I did take up the matter of the financial<sup>ing</sup> with him.

Mr. Shibley: All right, we'll get to that. At the moment I want it clearly a matter of record that you did not show Mr. McKeough the April 10 report on that trip?

Mr. Gathercole: That's exactly right.

Mr. Shibley: Mr. Gathercole, having regard - let me ask you this: Was this the first opportunity, since Pickering, that you had to discuss the matter with Mr. McKeough?

Mr. Gathercole: Yes.

Mr. Shibley: And, in fact, the Premier said: "Well, you'll be going to Japan on that trip and that's the time to talk to McKeough about it."

Mr. Gathercole: That is true.

Mr. Shibley: And wasn't one of the reasons you had the April 10 memorandum along with you, at least, that you should be briefed as to the particulars that might be required for you to conduct such a discussion?

Mr. Gathercole: Mr. Shibley, Mr. Nastich and I travelled together in the plane.

Mr. Shibley: Yes.

Mr. Gathercole: I took the copy which I hadn't, frankly, gone over up to that time because we had a lot of other things to clean up. I took the copy, having not gone over it prior to that time, and I discussed it with Mr. Nastich as we were going out on the plane, then had no further discussions with Mr. Nastich about it because we had a number of other affairs, and I hadn't discussed it with Mr. McKeough.



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( Mr. Shibley: Had you intended to discuss it with Mr. McKeough?

Mr. Gathercole: No. My intention was to ascertain from Mr. McKeough the question of treasury policy with respect to whether we would be in a position to use our traditional money sources to finance the head office building or whether we'd be in a position to go the lease-purchase route.

Mr. Shibley: Was it any part of your discussion with Mr. McKeough that you were considering the lease-purchase type of arrangement?

Mr. Gathercole: I had mentioned that to him. He confirmed that he felt that, inasmuch as the province itself was going this route in a number of instances, that he felt it would be consistent if Ontario Hydro, with respect to its own head office and, in view of the heavy obligations that Hydro had with respect to financing generating stations and transmission facilities, ~~to use~~ <sup>used</sup> this technique.

Mr. Shibley: Did you also discuss with him the fact that you had been dealing with ~~an~~ <sup>25</sup> a number of developers?

Mr. Gathercole: I said we ~~had~~ <sup>25</sup> had a number of proposals but I didn't go over who the ~~a~~ developers were with him.

Mr. Shibley: Bearing in mind that, at the time of this ~~xxx~~ trip which was, in April, was it?

Mr. Gathercole: ~~It was~~ the end of April, yes.

Mr. Shibley: Yes, you had now progressed internally to the position ~~to the position~~

(Tape H 1041 follows)





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(Mr. Shibley)

which was in April, was it?

Mr. Gathercole: ~~Towards the end of April, yes.~~

Mr. Shibley: Yes. You had now progressed internally to the position reflected in the April 10 memorandum?

Mr. Gathercole: Yes.

Mr. Shibley: Did you have any discussion with Mr. McKeough as to the developer who would likely succeed in obtaining the contract?

Mr. Gathercole: I didn't Mr. Shibley, and I may add that I have not discussed with Mr. McKeough the matter of letting any other contracts whether they are for buildings or purchases of equipment and I find it very difficult to get this thought through but nevertheless, it is a fact.

Mr. Shibley: All right. The only thing that concerns me now Mr. Gathercole is, we have got the situation where the Premier himself has told you to discuss it with Mr. McKeough during the course of your trip to Japan? Is that so?

Mr. Gathercole: Yes.

Mr. Shibley: And you did have such a discussion with him? That's right?

Mr. Gathercole: Yes.

Mr. Shibley: And you had Mr. Nastich with you at the time. Was Mr. Nastich on this trip <sup>for</sup> ~~for some other reason~~ unrelated to the Hydro head office or did you take him along because you wanted him there to keep you briefed?

Mr. Gathercole: Well, Mr. Shibley ...

Mr. Shibley: I don't want to know what the other reasons were, but I just want to know was he specifically with you to keep you briefed as to any questions that might come up referable to the head office?

Mr. Gathercole: We weren't in each other's company. I think they took different routes than we did. Mr. McKeough went with his deputy on one route and we went together, Mr. Nastich and I, ~~was~~ on another route. The purpose of the





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(Mr. Gathercole)

trip was the matter of exploring the possibility of raising money in the Japanese market for either the province's use or for our own use. It had nothing to do with this. This is simply an aside issue.

Mr. Shibley: That's

Mr. Gathercole: I assure you this. Our time was fully occupied on other matters.

Mr. Shibley: I understand that, Mr. Gathercole ...

Mr. Gathercole: We had other things to do beside this head office.

Mr. Shibley: I would hope so, otherwise the lights wouldn't go off in the morning!

Mr. Gathercole: So would we. ~~I was~~ <sup>needed</sup> ~~also~~.

Mr. Shibley: Mr. Gathercole, what I'm - you'll have to be patient with me because I think the committee are interested in knowing how much communication and how much understanding and knowledge there was on the part of government people referable to what was going on <sup>within</sup> ~~the~~ Hydro at the time you were making these decisions. So I take it from what you have said to this point, you only incidentally mentioned it to the Premier in the summer of 1971, you had some discussion that you have outlined with him in February at Pickering and the next ~~was~~ occasion was this somewhat collateral type discussion with Mr. McKeough ...

Mr. Gathercole: Yes.

Mr. Shibley: ... the Japan trip? Is that ~~&~~ correct?

Mr. Gathercole: Yes. That's correct.

Mr. Shibley: Now then, in the letter that you wrote to Mr. Davis of May 16, 1972 which is exhibit 40 ...

Mr. McCallum: Mr. Chairman, before Mr. Shibley goes on to this new point, I ~~want~~ wonder if we can clear up the facts arising out of the question of who had the discussion. I wanted to point out to the committee, with your ~~permission~~ permission sir, on page 207, the first three-quarters of the page were Mr. Shibley discussing Mr. Nastich and Mr.



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(Mr. McCallum)

Nastich's role in Hydro in relation to another matter. At the bottom end of the three-quarters of the page, the question that gave Mr. Gathercole<sup>2</sup> ~~the~~ answer was as follows; Mr. ~~Shirley~~ <sup>RENEWICK</sup> said to him:

"The question I want to ask you, Mr. Gathercole, as chairman, from your personal knowledge, did Mr. Nastich express to you or to the commission, at the meetings in June and July, his dissent from the arrangement or did he express himself as conveying reluctant agreement to go along with the arrangement?"

Now it was that question and that background of a whole page of discussion of Mr. Nastich and Mr. Gathercole, that gave Mr. Gathercole, made Mr. Gathercole make the following answering:

"Mr. Gathercole: During the trip that we, Mr. Nastich and I, took to Japan with the Treasurer of the province at that time, I took away with me a copy of the April 10 report, which is very favourably disposed towards the lease-purchase type of arrangement. We ..." and that was the important word "... had quite a considerable discussion of it at that time and, in general, I discerned from his remarks that, while there were one or two places, ~~reservations~~ you know, which he thought he might have ~~some~~ reservations, he thought it was a very comprehensive and good report.

"Subject to that, he did write, I believe, a memorandum to Mr. Dean raising some of these questions."

And so on from there. Now he's talking about "he" and he is talking about the "he" I suggest to you who is mentioned for the whole of preceding page which is Mr. Nastich and it is in that light that Mr. Gathercole made this statement, not in the light I really think of Mr. McKeough.

Mr. Chairman: Yes, that arose out of <sup>CA</sup> question of Mr. Renwick's.

~~Mr. Shirley: Yes, as did I. I was not questioning~~



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Mr. McCallum: I thought that might ~~be~~ clear it up.

Mr. Shibley: Yes, so did I.

Mr. McCallum: I am sorry, ...

Mr. Shibley: I wasn't questioning the witnesses ...

Mr. McCallum: ...I hadn't appreciated it was and I thought that it wasn't sufficiently cleared up and I just wanted to make sure it was.

Mr. Shibley: All right.

Once

Mr. McCallum: ~~Two~~ or twice <sup>there have been</sup> ~~and some~~ times when things I thought were cleared up hadn't been and I wished I had said something. I hope you will forgive me.

Mr. Deans: It's quite all right. I had just taken the same interpretation from it that you had just placed on it.

Mr. McCallum: Thank you very much.

Mr. Shibley: Mr. Gathercole, I want to refer you to exhibit 40 dated May 16, 1972: "On my trip to Japan with Hon. Darcy McKeough, I reviewed with him ..."





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M.R.

(Mr. Shibley)

"On my trip to Japan with the Honourable Darcy McKeough and company, I reviewed with him the *desirability of us proceeding as soon as practical* on the construction of the bus office, and then you make further statements about the diseconomies." Darcy indicated that he was receptive and suggested that we start the governmental-procedure ball rolling by having the Ontario Department of Public Works review it. I would be very pleased to have your advice."

Now I gather from what you've said to this point, Mr. Gathercole, that your discussions with Mr. McKeough were somewhat superficial in nature and he simply said: "Yes, get on with it", and he was receptive, using your term, is that correct?

Mr. Gathercole: That is right. He was receptive to us going ahead with the lease-purchase arrangement.

Mr. Shibley: Yes. He was receptive to your going to lease-purchase arrangement?

Mr. Gathercole: Yes.

Mr. Shibley: And your memo - I'm sorry - your letter to the Premier indicates that the Ministry of Government Services was the entity to which Mr. McKeough referred you as a beginning, or a point of beginning. ~~Is that~~ Is that right?

Mr. Gathercole: Yes, that is right.

Mr. Shibley: What was it that Mr. McKeough said to you in that respect?

Mr. Gathercole: My interpretation ~~was~~ *of his remarks*, Mr. Shibley, was that he was more concerned with the blending in of the new Hydro head office with the Queen's Park complex and that we should take it up from that point of view. Actually we didn't proceed.

Mr. Shibley: I ~~can~~ realize you did not proceed with the Ministry of Government Services, Mr. Gathercole, I'm trying to make sure that we have completely covered the involvement, if any, or the instruction, if any, referable to the Ministry of Government Services and I have now had produced



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(Mr. Shibley)

to you the Premier's original copy of your letter to him on which Mr. Fleck found the notations of June 9, on the right hand side, wherein he says - the note says - and I might tell you immediately Mr. Fleck has testified that the Premier never did say this, but the note says; "The Premier spoke with Gathercole a few days ago and confirmed that Government Services is the proper place to start." That's a note made on June 9 and it suggests that on June 7 there was a discussion with you referable - I'm sorry - discussion between yourself and the Premier on June 7 on or about June 7 wherein the Premier confirmed to you that ~~the~~ Government Services was the proper place to start.

Now, taking the two documents together, have you anything to add to your testimony to this point of time as to what you said in Exhibit 40 that Mr. McKeough had suggested to you and what, if any, comment you can make referable to this note that Mr. Rowan made on the instruction of Mr. Fleck on June 9?

Mr. McCallum: Would the witness be helped any by taking them one at a time? I know that you are asking ...

Mr. Shibley: Mr. McCallum, I put both in front of him because I am concerned to be complete. ~~If he wants to take them one at a time but I wanted him to have, in fairness to the witness, not only his copy but the original~~

H-1043 to follow



H 1043-1

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PLG

(Mr. Shibley)

~~concern to be exhibited.~~ If he wants to take them one at a time but I wanted him to have, in fairness to the witness, not only his copy but the original document with the notation so that he would be alert to the circumstance of what is coming. I would be glad to take it one at a time if that is the way you want to handle it, Mr. Gathercole.

Mr. Gathercole: Well, perhaps we could proceed one at a time in the order that you have outlined.

Mr. Shibley: Well, I gather Mr. McKeough had ~~had~~ having told you this, ~~and~~ you decided then the thing to do was to write to the Premier in that respect. Is that correct?

Mr. Gathercole: Yes.

Mr. Shibley: In the course of your discussion with Mr. McKeough, was any reference ~~ad~~ made to the fact that the Ministry of Government Services had been involved in settling the terms of the lease-purchase arrangement for OISE?

Mr. Gathercole: No.

Mr. Shibley: I see.

Mr. Gathercole: Absolutely not.

Mr. Shibley: He didn't say that might <sup>that</sup> they ~~have~~ already been involved at OISE and maybe that is a good place for you to start to get some help?

Mr. Gathercole: The first time I'd known about it was during these hearings.

Mr. Shibley: All right, fine. So that this was just volunteered without any reference by Mr. McKeough to any other circumstance which might cause him to think that the Ministry of Government Services was a good starting point? Is that correct?

Mr. Gathercole: He volunteered this, yes, as being a starting point, ~~which~~ as I say, my interpretation was to <sup>insure</sup> that the Hydro head office would blend in with the Queen's Park complex.

Mr. Shibley: All right. Was the next step after your return from the Japan trip to write the letter to the



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(Mr. Shibley)

Premier, of May 16?

Mr. Gathercole: Yes. It may have followed, I guess, some time after, I think, I returned.

Mr. Shibley: Now you have got the Premier receptive in February; you have got the Treasurer receptive in late April on your trip to Japan; and you are, so to speak, ~~very~~ touching base, I suggest, with the politicians who would be material in the ultimate decision-making process. Is that right?

Mr. Gathercole: Yes.

Mr. Shibley: Yes; but without any formal submission on your part?

Mr. Gathercole: That is correct.

Mr. Shibley: All right. Now then, let's go to Exhibit 178, which is the Premier's copy. Did you have a conversation with the Premier on or about - well, within the period May 16 to June 9? Did you have any such discussion with him?

Mr. Gathercole: I had no discussion with him about the building other than that which I have related.

Mr. Shibley: I might remind you, Mr. Gathercole, and it is an element, I am trying <sup>very hard</sup> to be complete as to all circumstances. The list of meetings which Mr. Fleck has provided to me, the list of meetings as between yourself and the Premier indicate that you had a meeting with the Premier on June 1, 1972. Now, Mr. Fleck has said that that meeting related to Task Force Hydro and not to the Head Office building, so your information might be complete as to all circumstances weighing upon you at this time. You had had the comment from Mr. McKeough, you wrote the letter to the Premier; Mr. Fleck instructed Mr. Rowan to take the note of June 9. In the interim, you had had a meeting with Premier Davis on June 1. I want to know whether, even incidentally or collaterally, anything was said between you and the Premier or the Premier to you, on the occasion of your meeting on June 1 which might have





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(Mr. Shibley)

spawned this particular note?

Mr. Gathercole: No, I did not. I did not discuss it with him <sup>at</sup> the June 1st meeting which dealt with Task Force Hydro and, to a large extent, <sup>with</sup> the discussions of the Nanticoke-Pickering line and the establishment of a committee, which later <sup>became</sup> the Solandt Commission, which was announced on June 22.

Mr. Shibley: All right. Well, then, have you any explanation or any comment of any kind to make as to why Mr. Fleck would have instructed Mr. Rowan on June 9, to note that the Premier spoke with you a few days prior

Tape H 1044 follows



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11.30 - 11.35 a.m.  
M.R.

(Mr. Shibley)

~~...Rowan on June 9 to note that the Premier spoke with you~~  
~~a few days prior~~ and confirmed that Government Services was  
the proper place to start?

Mr. McCallum: Didn't Mr. Fleck say he had no  
recollection of having made those precise words to his  
Mr. ~~Rowan~~ Rowan?

Mr. Shibley: I realize, Mr. McCallum, we have a  
piece of documentary evidence here however...

Mr. McCallum: Yes, I know.

Mr. Shibley: ..and although Mr. Fleck doesn't  
remember doing it, it's obvious he did do it and although  
Mr. Fleck had said it's completely irrational...

Mr. McCallum: Yes, sir.

Mr. Shibley: ...incongruous, inconsistent with  
his own thinking of what should have been done, I'm anxious  
to examine with Mr. Gathercole what he knows about it ~~but~~  
because of course it <sup>a</sup>eminate<sup>s</sup> from - the note, I'm sorry,  
~~the~~ note suggests that there was a discussion about Government  
Services between the Premier and <sup>him</sup>~~he~~ at that time. Now, if  
he says there was no such discussion, then we have got his  
evidence.

Mr. McCallum: That is right, sir.

Mr. Shibley: All right?

Mr. McCallum: That is right and if you ask him  
that question and he gives you that answer, I absolutely agree  
with you. We wouldn't need to have to get into the other  
part at all.

Mr. Shibley: Exactly. But I have to ask the  
question, Mr. McCallum.

Mr. McCallum: Yes, ~~xxx~~ sir, I agree you do but  
it just seemed to me that the question ~~a~~ was coming out with  
reference to the text itself. I don't have any quarrel with  
the way you have just put it at all, sir. Go right ahead.



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M.R.

Mr. Shibley: And I might say I'm - my next question if you want to know what it is going to be - is why, if Mr. McKeough suggested that that was the place to start, was it never followed through? Particularly when, Mr. Gathercole, you wrote to the Premier in terms of "this is where Mr. McKeough says we should start, may I have your advice." And Mr. Fleck's note indicates that the Premier gave advice in this area although he says that the Premier has said he never did give the advice.

Now, having given you everything I can to assist you, Mr. Gathercole, I have bared my mental processes, almost my soul, to you in terms of the line of questioning, I would like whatever assistance you can give this committee which might help clear up what was happening, what communications took place and why the ministry was never brought into this matter at that time.

Mr. Gathercole: Well, in the first place, Mr. Shibley, and gentlemen, I have no recollection that the Premier communicated to me that this matter should be put before the Ontario Department of Public Works or Government Services. I have no recollection of that at all and if I had had that communication, we certainly <sup>W/C/W</sup> have done so.

On the other hand, the question is why did we not - the second question - why did we not proceed through the Ontario Department of Public Works, and in retrospect I would suggest that we would have saved ourselves a giant-size or king-size headache if we had done so. But we had not previously submitted any of our building plans to the ~~Min~~ Department of Public Works nor had we submitted to other departments the decision making capacity on contracts which run up into the hundred millions of dollars and if they are going to do that, Mr. Shibley, then they may as well take over the ....





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M.R.

Mr. Shibley: Mr. Gathercole, let's not get into irrelevant comment.

Mr. Gathercole: It's not irrelevant in my mind, Mr. Shibley. I can assure you of that.

Mr. Shibley: I take it your evidence is, then, that the Premier never did speak to you?

Mr. Gathercole: That is my understanding.

That is - to me, he didn't speak to me about this.

Mr. Shibley: Your best recollection ...

Mr. Gathercole: Yes.

Mr. Shibley: Is that there was no communication between yourself and the Premier which accords with this note of June 9?

Mr. Gathercole: Exactly.

Mr. Renwick: Mr. Chairman, if I may.

Mr. Chairman: Yes.

Mr. Renwick: I take it Mr. Gathercole, that what you are saying to us is that of the two items that are dealt with in your letter to the Premier of May 16th, you and the Premier dealt only with one of them at your meeting?

Mr. Gathercole: That is correct.

Mr. Renwick: You dealt at some length with the high voltage transmission line ...

Mr. Gathercole: That is right.

Mr. Renwick: ...from Nanticoke ...

Mr. Gathercole: Yes.

Mr. Renwick: ...but you didn't discuss the head office?

Mr. Gathercole: No, we did not discuss the head office.

Mr. Renwick: Did you have the letter with you at the time of the meeting?

Mr. Gathercole: No. I did not. And I'm sure neither did he.



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July 9, 1973  
11.30 - 11.35 a.m.  
+M.R.

Mr. Shibley: As at June 1 had you received any  
form of reply to the letter of May 16?

Mr. Gathercole: No. Not that I am aware of.

H-1045 to follow







July 9, 1973  
11.35-11.40 a.m.  
M.F.

H - 1045 - 2

(Mr. Bullbrook)

efficiency of government.

Mr. W. Hodgson: The government is not responsible for Hydro.

Mr. Bullbrook: Does that mean they are irresponsible?

Mr. Chairman: You had better complete that statement, Mr. Hodgson.

Mr. W. Hodgson: Well, I mean it is the Hydro that is building the line and they are very concerned with the people ~~that~~ it affects and this is why they are taking so much time.

Mr. Gathercole: We are trying to build it anyway, Mr. Hodgson.

Mr. Renwick: Mr. Chairman; if I may, Mr. Gathercole, I want to explain to you that you will appreciate the difficulty that a person being a lawyer faces; probably I should have gone into some other profession.

There is no doubt whatsoever that despite Mr. Fleck's disclaimer of the note on the Premier's letter being incorrect, shouldn't have been there, should never have existed, there is no doubt ~~and~~ I think Mr. McCallum and Mr. Bullbrook and Mr. Shibley would all agree with me ~~and~~ and Mr. Walker <sup>they</sup> ~~they~~ would all agree with me that if you were in a court of law and despite the oral testimony of individuals, there was a document produced relatively contemporaneously <sup>to</sup> with the events to which it related, that a person would be hard-pressed not to believe the notation on the letter rather than the recollection ~~of~~ months later, of the circumstances under which that took place.

Mr. Gathercole, I want you to be perfectly clear that despite Mr. Fleck's disclaimer - and it is not a question of somebody telling the truth or not telling the truth, it is a question of accuracy of what, in fact, took place - that the notation on the letter is consistent with Mr. Fleck's explanation






July 9, 1973  
11.35-11.40 a.m.  
M.F.

H - 1045 - 3

(Mr. Renwick)

of his absence from the province at the time when the letter arrived; with his absence on June 1st from the meeting which he would normally have attended with you and the Premier; but that on his return, as was his custom, he brought himself fully up to date as to what took place. He met with his assistant, and his assistant notes on it that the Premier of the Province had spoken with you and that, yes, what Mr. McKeough suggested was the way to proceed.

Now that is very compelling evidence in a court hearing. ~~This is not a court, but I want to say that as ~~the~~ a lawyer with the background of training, it is still extremely compelling evidence and I am -----~~



H - 1046 follows



H 1046-1

July 9/73  
11:40-11:45 a.m.  
PLG

(Mr. Renwick)

This is not a court but I want to say that as a lawyer with that background of training, it is still extremely compelling evidence, and I am taking your evidence under oath to be, that although you raised two matters in ~~the~~ letter of May 16 to the Premier of the province, the first one being the Head Office ~~and~~ and reporting to the Premier on what he had apparently recommended to you in February, and the second one, almost as an after-thought that you went -- that, is, the reference: "I'd also be glad to have your advice about the Nanticoke matter", that you went to a meeting on June 1st with the Premier and there was no mention of any kind about the Hydro head office building. That is your evidence to this committee.

Mr. Gathercole: That is absolutely correct. Now, the meeting ~~I~~ I mentioned didn't concern only this one of the tie line and the subsequent appointment of the Solandt commission, but it also dealt with Task Force Hydro. There were several meetings on this.

Mr. Shibley: Mr. Gathercole, I would like to ask you about the second notation on that May 16 letter. Would you look at it carefully please. It reads:

"Premier spoke to G."

and Mr. Fleck says that is Gathercole, something;

"policy submissions sent to Cabinet";

and Mr. Fleck has said that that notation relates to a submission to ~~Gathercole~~ Cabinet about the subject matter of the second paragraph of your letter, namely the transmission line from Nanticoke. Now, can you assist the committee to confirm that such a ~~sub~~ submission was in fact sent to Cabinet?

Mr. Gathercole: No. I have no knowledge of it.

Mr. Shibley: You mean there was a no such submission sent to Cabinet?

Mr. Gathercole: No. I didn't say that. *Loch I had*  
*I said* no. I have no ~~any~~ knowledge of a submission concerning that subject being sent to Cabinet, at that particular...



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PLG

Mr. Shibley: Well ~~Mr. M. Sullivan~~ <sup>Gathercole</sup>, I think now it becomes important, because I had understood from Mr. Fleck's testimony that that note was not to be taken as related to the first paragraph, which was the head office building.

~~Mr. Sullivan~~ <sup>Gathercole</sup> for that is true.

Mr. Shibley: So that I am anxious to have that confirmed by an investigation on the part of Hydro as to whether a submission was sent to Cabinet, vis-a-vis the transmission line from ~~Hydro~~ <sup>Nanticoke</sup>, or whatever else is the subject of paragraph two, because the indication by Mr. Fleck is that that notation relates to paragraph two and does not relate to a submission to ~~the~~ Cabinet vis-a-vis the head office building. Do you understand that, ~~Mr.~~ <sup>Gathercole</sup>?

Mr. Shibley: Well I do, but all I was saying is, I don't know all the submissions that are made to Cabinet, even that emanate from Hydro. There may be some that are made of which I am not aware and...

Mr. Shibley: Well I want you to check, because you see you have raised a stir among the committee members because you said you don't know of any such submission, and yet that may well lead us back into asking you, well, if there was no submission made referable to the transmission line, did that notation in fact relate to the head office building, and ~~if~~ <sup>if</sup> so, then what are we talking about in terms of the submission? Now we are all left to speculate again unless you clear that up.

Mr. Chairman: Well, let's take a five or 10 minute recess at this point, and ~~we~~ try to get back here before five to twelve.

~~Mr. Sullivan~~ <sup>Gathercole</sup>

Tape H 1047 follows





July 9, 1973  
12.00-12.05 pm  
V.H.

The committee resumed at 12 o'clock.

Mr. Chairman: Mr. Renwick, I think you are going to have to take our Clerk aside and inform him of the correct way to call a group such as this back together. The wording is not "Time, gentlemen, time"! However, we are all re-assembled.

Mr. R.G. Hodgson: *That's the only way he can get response.*

Mr. Chairman: *Besides,* That's right. That's right.

Mr. Renwick: *It's* just opening time!

Mr. Shibley: It is because you keep talking about the ~~balls~~ in your court!"

Mr. Gathercole, before the recess, we were dealing with the notation on exhibit 118, which is the Premier's copy of your letter, ~~and~~ I think you now perhaps better understand what is concerning me, and that is to make clear whether or not the second part of that notation related to the head office building or whether or not it related to the Nanticoke transmission line. Can you help us beyond what you have already said or do you require further checking on this?

Mr. Gathercole: I would think, Mr. Shibley, that it pertains to the second ~~same~~ paragraph and not the first because I have a notation that the Solandt Commission was appointed on June 22 and that would, I believe <sup>have</sup> require some consideration by the policy and procedures or priorities and policy committee of the government.

Mr. Shibley: At the meeting of June 1, 1972, ~~which~~ which you had with the Premier who also was present at that meeting?

Mr. Gathercole: On June 1?

Mr. Shibley: Yes.

Mr. Gathercole: As far as I am aware, Mr. Bleck was away at that time.

Mr. Shibley: Yes, I realize.

Mr. Gathercole: I don't know whether there was anyone else there or not. I am sorry. I can't recall anyone else. I know that Mr. Lawrence was involved in some of the discussions but whether he was at that meeting or not, I don't know. ~~The~~ The Hon. Bert Lawrence.



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Mr. Shibley: I see. But was any other person there who might be representative of Task Force Hydro?

Mr. Gathercole: No. Not that I recall. No. There wasn't.

Mr. Shibley: Was that not the subject matter of that meeting?

Mr. Gathercole: Yes, I believe it was in part ~~and~~

Mr. Shibley: And ~~that~~ <sup>yet</sup>

Mr. Gathercole: ~~and~~ and Task Force Hydro, as I recall, we did have some discussion about the east-west, I am sorry, <sup>the</sup> Nanticoke <sup>to</sup> ~~the~~ Pickering grid line.

Mr. Shibley: For example, the....

Mr. Gathercole: ~~I had~~ <sup>I had</sup> a number of reservations about some of the recommendations of the task force which I wished to communicate to him and he arranged <sup>and</sup> ~~it~~ <sup>they</sup> ~~extended~~ over a period of time ~~and~~ a number of meetings for this purpose.

Mr. Shibley: But at this particular meeting, notwithstanding that one of the topics intended for discussion was the work of Task Force Hydro, <sup>Hydro</sup> there were no persons on Task Force <sup>present</sup> at the meeting? Is that correct?

Mr. Gathercole: Yes. That would <sup>her</sup> ~~be~~ <sup>n't</sup> indicative of anything. It was a meeting at which I <sup>wished to</sup> ~~convey~~ convey some of the views that I had on the Task Force recommendations. He was affording me an opportunity to make them available to him.

Mr. Shibley: Well, was Mr. Gordon with you?

Mr. Gathercole: No.



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~~(Mr. Gathercole)~~

~~on the task force recommendation that Mr. Gordon be given~~  
~~me an opportunity to make them available to him.~~

Mr. Shibley: Was Mr. Gordon with you?

Mr. Gathercole: No.

Mr. Shibley: He was on Task Force Hydro!

Mr. Gathercole: Yes, he was a member of Task Force Hydro.

Mr. Shibley: Yes, and wouldn't your views on Task Force Hydro be views that were the result of discussion between yourself and Mr. Gordon?

Mr. Gathercole: Yes, that's true.

Mr. Shibley: And would he not have been the logical person to have along to give you the precise information that might be required?

Mr. Gathercole: Mr. Shibley, Mr. Gordon was a member of Task Force Hydro. I was making certain representations on behalf of the Ontario municipal electric utilities in respect to other matters, and so it wasn't essential that Mr. Gordon be there at that particular occasion.

Mr. Shibley: I'm not suggesting that it ~~was~~ would be essential. I just wondered whether you might not have thought it useful to have him along.

Mr. Gathercole: He's a very useful individual and I was

Mr. Shibley: I agree with you.

Mr. Gathercole: - one who recommended that he'd be on Task Force Hydro. As a matter of fact, I was on it myself at one time until I withdrew.

Mr. Shibley: The request for the June 1 meeting, was it from you to the Premier or from the Premier to you?

Mr. Gathercole: My recollection is, and this is the advice ~~that~~ whether it's this meeting or some of the others, that this was an appointment which was arranged through the Premier's office with my secretary. But let me say this, the Premier knew that I had a number of matters concerning Hydro



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that I would have liked to discuss with him from time to time and that he would make these ~~arrangements~~ ~~arrangements~~, in accordance with his convenience.

Mr. Shibley: Mr. Gathercole, exhibit number 70 dated June 6, 1972, is a memorandum ~~from~~ Mr. Candy referencing a meeting held on June 5 with Messrs. Sissons, ~~Durand~~, Durand, Gordon and Mink, where in it was decided that - ~~this~~ this is exhibit 70, June 6, 1972. It says: "It was discussed, during that meeting of the fifth ~~a memo~~ be prepared justifying the requirements for a new head office and recommending an appropriate developer to ~~carry~~ carry out the project." Then it says: "In my subsequent discussions with the chairman, he agreed that I should <sup>not</sup> ~~put~~ up the memorandum and sign it as the initiating party and I will then discuss who, in addition to myself, will sign the memorandum."

This is June 6, 1972. Do I take it that, as at this time, the question of the head office building and the preparation of a memorandum justifying its need, etc. was a current matter in your thinking?

Mr. Gathercole: Yes, I would say that it was one out of many, many items, some which were much more pressing.

Mr. Shibley: Did you have anything to do with bringing about the meeting of June 5 between Sissons, Durand, Gordon and Mink?

Mr. Gathercole: Nothing.

Mr. Shibley: And <sup>nothing</sup> ~~that~~ transpired at, or about, that time in early June to cause that meeting other than that they ~~themselves~~ brought it about?

Mr. Gathercole: I presume so, Mr. Shibley.

Mr. Shibley: You appreciate, Mr. Gathercole, that in a documentary sense, we sort of jump from about mid-April to the meeting of June 5 before there is any indication of much ~~activity~~ activity within Hydro. Do you understand that?

Mr. Gathercole: I think this is a point you made before,

Mr. Shibley: I haven't any explanation for it.





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Mr. Shibley:

What I am wondering is this, Mr. Gathercole; whether, as at April 10, you had gone as far as you could within Hydro and then you were touching base with Mr. McKeough, the end of April, on your trip to Japan, and after that you went, you had -- well, you also had a meeting on June 1 with the Premier which you say is a meeting that you didn't discuss anything about ~~the~~ the head office at that meeting, but on June 5, there is ~~again~~ a starting-up again at the Hydro side of this thing, ~~and~~ I want to know whether anything had happened in the interval in terms of any advice or action on the part of government that made your people believe that, as at June 5, *they* ~~we~~ should now get on with it ~~a~~ once again?

Mr. Gathercole: ~~XX~~ Absolutely not, to my knowledge.

Mr. Shibley: I see. All right.

Mr. W. Newman: Mr. Chairman, dealing with the meeting with the Premier on June 1 and your letter to the premier, May 16, exhibit 178, perhaps you could help me; this is <sup>usual</sup> the term <sup>the</sup> lawyers use! ~~you lawyers~~ Perhaps you could help me refresh my memory about that time <sup>June 5</sup> ~~there~~ not a lot of flak about the Nanticoke to Pickering line, <sup>and</sup> ~~that~~ the best of your knowledge, <sup>have</sup> ~~you~~ that the Premier arranged a meeting for you, <sup>of</sup> ~~with~~ would this not be a prime concern to the Premier at that time, with all the flak that was going on in the paper?

Mr. Gathercole: Yes, I think he received a petition, I think, from what was called the Committee of 5,000 Concerned Citizens.

Mr. W. Newman: This would be of prime concern ~~for~~ <sup>to</sup> him <sup>in</sup> ~~to~~ arrange the meeting with you for ~~June~~ June 1st?

Mr. Gathercole: It was, and we were concerned, too, because we wanted to get on with this line and ~~we~~ have been working on it for three years, we wanted to get on with the construction of the line and ~~we~~ could see another committee being established, which has been established and which has



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~~and~~ further ~~debated~~ <sup>and</sup> debated and we are now a year late on this, from that period of time.

Mr. Shibley: Then, I would like you again to look at the exhibit 73 ---,

Mr. Bullbrook: Have you left 70?

Mr. Shibley: Yes, I have.

Mr. Bullbrook: Well, I just wanted to clarify something in my mind. In referring back to 70, do you have it in front of you, Mr. Gathercole?

Mr. Gathercole: This one here?

Mr. Bullbrook: Mr. Candy says, "In my ~~xxx~~ subsequent discussion with the Chairman, I might be going over something you have gone over before; stop me if I am. "In my subsequent discussion with the chairman, he agreed that I should put up thememorandum" now we will just leave it there. You will notice that the next few paragraphs -- I am sorry, refer to page 2 and again he says:

"In recommending a developer, state the following reasons for our selection"

In your discussion with Mr. Candy had you suggested to him that part of the memorandum that he would eventually prepare would deal at length with the reason for the choice of the developer by the commission? Or had that been gone into?

Mr. Gathercole: I have no recollection of <sup>that</sup> Mr. Bullbrook, I have no recollection of whether it embraced anything other than questions to who should be involved in the signing of the memorandum. I thought this <sup>was</sup> ~~was~~ pretty simple, that it would be the normal procedure.

Mr. Bullbrook: Well, would it be illogical for us to assume that there had been some discussion between <sup>el</sup> yourself and Mr. Candy as to a justification for the choice of the developer?



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Mr. Gathercole: Well, I wouldn't say a justification.  
I would <sup>say</sup> a reason for the selection of one developer rather than another developer.

Mr. Bullbrook: Yes. Thank you.

Mr. Shibley: Then, Mr. Gathercole, the next step was the preparation of the memorandum of June 23, exhibit 74, and the submission of that memorandum on the occasion of the commission's meeting on June 29; is that correct?

Mr. Gathercole: I believe that is so.

Mr. Shibley: Now, then, this seems to be a culminating document in the sense that it's intended to be a basis upon which

~~the commissioners were expected to agree~~

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~~in a sense that it's intended to be a basis upon which~~  
the commissioners were expected to come to a decision. Would you agree with me as to that?

Mr. Gathercole: Yes. We were reaching to that goal.

Mr. Shibley: Right. What, if anything, then, took place, or what communication, if any, ~~was~~ written or oral, had there been from anyone on the government side of this matter, which would lead your people to conclude that the matter was ready for a decision by the commissioners on June 29?

Mr. Gathercole: We had received no official communication from it, nor unofficial communication. We felt it was just a decision for us to make and to get ahead with, ~~and that was~~ <sup>but</sup> ~~we hadn't received any veto, we hadn't received~~ any veto, and we felt it was our decision to make and we could proceed.

Mr. Shibley: So that, Mr. Gathercole, I take it that ~~was~~ what was happening here was, you touched base with the Premier in the summer of 1971 and he seemed receptive or he was sympathetic, I think was your term; you touched base with him again in February and he said you should speak to Darcy ~~McKeough~~ McKeough; you touched base with Darcy McKeough in a collateral way on the trip to Japan, and those were the only communications or only participation on the part of anyone in government prior to this being tabled with the commissioners on June 29?

Mr. Gathercole: Yes. I would make one qualification. As I have said, I had indicated to the previous Minister of the Environment, Mr. Kerr, and subsequently to Mr. Auld, that in a general way we wanted to get ahead with our building. <sup>But</sup> other than that qualification, the answer to your question is yes.



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Mr. Shibley: And when you submitted the press release of July 21, 1972, was this again a method you were employing of testing the water, so to speak, with government as to whether you were going to get a "no" to your forward progress?

Mr. Gathercole: I would say it was advice to principal officers to the effect that we were proceeding with our plans. We had made a decision. It was our decision to make and we were proceeding as any other enterprising organization would.

Mr. Shibley: When you said in the letter to Mr. Fleck of June 21, Exhibit 41; "We wish to insure that ~~nothing~~ this action is not in conflict with the Premier's judgement"; were you sort of throwing out a line and if you didn't get a "no", you were going to go ahead with the building?

Mr. McCallum: Mr. Shibley, the line of your questioning is very apparent, but it's very hard to get the witness to adopt ~~any~~ "touching bases" and ~~any~~ "throwing out your lines." First thing we know, I know he's resisting you so far, but I thought perhaps you wouldn't mind my interjecting for a moment. It's building an atmosphere that may or may not be justified on the facts. I appreciate what you are saying but I wonder if we could have the question without the "throwing out the lines" and perhaps we will have a little better ease in answering your questions, sir.

Mr. Shibley: Mr. Gathercole, I take it that there was certainly no formal communication between Hydro and government wherein government gave its stamp of approval to your head office building. Is that right?

Mr. Gathercole: Exactly.

Mr. Shibley: And on the other ~~side~~ hand, you being ~~also~~ alert to the circumstance that government had an ultimate veto in that respect, as they had ~~exercised~~ exercised I think in 1969,



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Mr. Gathercole: That is correct.

Mr. Shibley: ~~from~~ you were aware ~~that~~ to avoid a "no" from government of that kind, is that correct?

Mr. Gathercole: Yes, I would say that we always recognize the supreme authority of the government.

Mr. Shibley: Exactly. And your method in respect of this contr~~act~~ was to touch base but not make a formal submission to Cabinet or anyone else?

Mr. Gathercole: ~~Well, we were required to~~

Mr. Shibley

H-1051 to follow



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PLG

(Mr. Shibley)

submission to ~~State~~ Cabinet or anyone else.

Mr. Gathercole: Well we ~~were~~ weren't required to, Mr. Shibley, under the terms of the act.

Mr. Shibley: I realize you say you weren't required to. At one time you had considered a submission.

Mr. Gathercole: Yes, that's right. I had, but on the ~~other~~ other hand we proceeded to go ahead and...

Mr. Shibley: You decided instead of a formal submission to simply do it on an ~~informal~~ informal basis of communication along the lines we have been covering this morning.

Mr. Gathercole: We decided to proceed as any other enterprising organization would do to exercise our authority. I mean, this building, Mr. Shibley I know we have taken a lot in this and I think that we have been exposed to much more criticism than we ~~should~~ should have, even to the extent of abuse, but, I am saying this: this is only one part of our programme. We engaged on a nuclear programme, on a big generation programme, and we carried it through. ~~We~~ We didn't ask the government to approve our ....

Mr. Shibley: Mr. Gathercole, I have asked you not to wander.

Mr. Gathercole: I am not wandering. I think that part of the background of this matter is being avoided and part of the justification for it, I think, ...

Mr. Penwick: Mr. Chairman I would like to interrupt Mr. Gathercole. I have taken occasion, and I am not suggesting I have an extensive knowledge of it, but the generalised statements that apart from borrowing ~~the~~ you don't require government approval under The Power Commission Act is just not correct. There are a large number of matters which require government approval. Indeed, if I may be permitted an irrelevancy, Mr. McKeough as recently as the latter part of the ~~the~~ last session indicated quite clearly that sometimes you could stick-





H 1051-2

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(Mr. ~~Renwick~~ Renwick)

handle through the Act and not get Cabinet approval for certain things, and in other situations you would require it. Now, I want to ask, Mr. Chairman, that Mr. Gathercole not use this as an argument, because The Power Commission Act does not permit that interpretation. ~~Indeed~~ Indeed, if one wants to be strictly legal about a statutory form of corporation, there might be a very well be real question ~~about~~ whether as a legal matter, and this was one of the matters which I was going to ask Mr. McCallum when he gave his evidence as to whether there was any authority for Hydro to in fact build a head office building. Now it is that nebulous and I simply want to, Mr. Chairman, not have the issue that we are concerned with clouded with whether or not in certain circumstances you do ~~not~~ get Cabinet approval. In my judgment a reading of The Power Commission Act indicates that that is a difficult legal question at any time.

Mr. Gathercole: Mr. Renwick there are a number of orders-in-council required for the procedure of ~~acquiring~~ ~~and~~ orders-in-council for power developments, generating stations, and so on. That is all inscribed in The Power Commission Act and I have referred to that in the past. ~~What~~ ~~What~~ I was mentioning was, if I may, is that the form and extension of our development programme was rested on decisions which are made by the Commission, and if the Commission or the new corporation is to be an enterprising body, then it seems to me it should have the right to make these decisions and it shouldn't be required to come up to a department of government and ask, should we do this or should we do that, ~~and~~ and so on. That is the only point I am making. It should be in a position to exercise its own initiatives and enterprise. That is the only point I was trying to make.

Mr. Shibley: Mr. Gathercole, I am just trying to establish a record for the committee to examine later, respecting the measure of contribution, whatever that was, on the part of government towards the decision-making process referable to your



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FLG

(Mr. Shibley)

head office building and if I am wrong in this respect please  
correct me, but do I take your evidence to be that there were  
no formal submissions; there were these incidental communications  
with the Premier, with Mr. McKeough, with the Premier again,  
~~and then the areas where the evidence was taken and the~~  
~~you should take any~~

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(Mr. Shibley)

~~with the Province~~ again and then the press release; and only in that indirect way were you able to make any assessment of what the attitude of government was respecting this head office project. Isn't that so?

Mr. Gathercole: Yes.

Mr. Shibley: And as long as you weren't getting a "no" you were going to get a "go-ahead"?

Mr. Gathercole: Well that is what we ~~wanted~~ wished to do, <sup>to</sup> go ahead.

Mr. Shibley: Yes. These were, so to speak, opportunities for someone in government to say no if that was their feeling about the project and you weren't getting any nos. Isn't that so?

Mr. Gathercole: Not that I could discern.

Mr. Shibley: I would imagine you are a very discerning person when it comes to dealing with the people in question, Mr. Gathercole.

Mr. Gathercole: Well I am a discerning person when it comes to looking after the interests of the power users of the province.

Mr. Shibley: Yes, and you were anxious to get this building built?

Mr. Gathercole: Exactly. We wanted to save them money.

Mr. Shibley: All right, Mr. Gathercole. I want to take you to a different topic, if I may.

Mr. Renwick: May I just <sup>advert</sup> to a problem that confuses me on exhibit 41, which is the - you have that in front of you, Mr. Gathercole?

Mr. Gathercole: Which one is that?

Mr. Renwick: Exhibit 41, your letter to Mr. Fleck that was delivered to his home on July 21st?

Mr. Gathercole: Yes.





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Mr. Renwick: Again, I always take letters to mean what grammatically they state. I take that letter to be a request to Mr. Fleck; "We wish to ensure that this action is not in conflict with the Premier's judgment". Now I take it that this action to be the issuance of the announcement about the new building; not a question related to whether or not you will build the building. Is that correct?

Mr. Gathercole: That wouldn't be my interpretation. My interpretation would be that this action ~~was~~ proceeding with the negotiation for a head office building was going ahead. That would be my off hand interpretation. I am not saying it but --

Mr. Renwick: Well it says; "Dear Jim, attached is a copy of an announcement we propose to make ~~make~~ regarding the new office building at an early date". Now the action, as I take it, is the proposal to make the announcement at an early date about the new office building, and if that is correct I don't understand why you would be concerned with it being in conflict with the Premier's judgment.

If, on the other hand, I am being asked to say that that letter is a request that the decision to build a new office building doesn't conflict with the Premier's judgment, I find it just not, it just doesn't ring correctly when attached to it is a two or three page - what is it - a three page document, being the announcement about the building.

Mr. Chairman, would Mr. Gathercole tell me what he wishes the committee to take that letter to mean specifically; what was he asking in that letter?

Mr. Gathercole: Well putting myself back in the position as far as I am able to at the time that I wrote it, I would say ~~that the intent there is to~~

Tape H - 1053 follows



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(Mr. Gathercole)

~~that~~ that the intent there is to express the wish that this action is not - this action meaning ~~the~~ proceeding with the construction of the head office building, is not in conflict with the Premier's judgement.

Mr. Renwick: May I refer, Mr. Chairman; ~~may~~ I refer, Mr. Gathercole then, to exhibit 44, that is, Mr. Fleck's reply:

"Dear George: Thank you for your note. The Premier will be interested in seeing it. In passing, I might add that while he wants to be kept informed, the judgement is supplied by the commission."

In the light of your letter to Mr. Fleck, and in the light of that reply, what did you take that reply to mean?

Mr. Gathercole: I think, Mr. Renwick, I have previously given evidence to the effect that I hadn't received this note until it was subsequently delivered by Mr. Fleck and that is the position that I have at the present time. I was -

Mr. Renwick: ~~Excuse me~~ Excuse me. This was the document that you finally had to get from the -

Mr. McCallum: This never surfaced until these hearings started, if you remember.

Mr. Renwick: So you don't ever recall having seen exhibit 44 until the hearing took place?

Mr. Gathercole: No, I don't except that what the message conveys to me is that the ~~last~~ decision is Hydro's. It's exercised judgement in ~~the~~ other matters and should exercise judgement in this connection.

Mr. Renwick: Thank you, Mr. Chairman.

Mr. Chairman: Ladies and gentlemen, it being just after 12:30 I think it would be wise to adjourn at this point.

The committee took recess at 12:35 o'clock, p.m.



## APPEARANCES

Committee members:	J.N. Allan
	J.E. Bullbrook
	I. Deans
	M. Gaunt
	L.C. Henderson
	R.C. Hodgson
	W. Hodgson
	J.P. MacBeth (Chairman)
	W. Newman
	J.A. Renwick
	G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Snibley, QC
	J.P. Bell
Ontario Hydro counsel:	Pierre Genest, QC
	James McCallum, QC
Canada Square Counsel:	Douglas Laidlaw, QC
	Blair Cowper-Smith
Chairman, Ontario Hydro:	G.E. Gathercole

## CORRECTION

On page H-914-2, July 4, 1973, 11.15-11.20 a.m.,  
Mr. J.D. Fleck is quoted in the 13th line from the  
bottom of the page as saying, in part, "...although  
I am sure...." This should read, "although I am not  
sure...."



LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Monday, July 9, 1973

Afternoon session





July 9/73  
2:10-2:15 pm  
C.B.

~~LEGISLATURE OF ONTARIO~~

SELECT COMMITTEE - HYDRO HEADQUARTERS

Mr. Chairman: Ladies and Gentlemen, I call the meeting back to order, and I assume, Mr. Shibley, you will wish to proceed with Mr. Gathercole.

Mr. Shibley: Yes, please, Mr. Chairman.

Mr. Chairman: Would you come forward then please.

Mr. Bullbrook: Before Mr. Shibley proceeds I want to know whether Mr. Shibley is finished with exhibit number 70.

Mr. Shibley: I am.

Mr. Bullbrook: Well, will you permit me Mr. Chairman?

Mr. Chairman: Mr. Bullbrook.

Mr. Bullbrook: I want to examine Mr. Gathercole. I trust not <sup>at</sup> too great length but in some detail.

Mr. Chairman: On which exhibit is that?

Mr. Bullbrook: Exhibit 70.

Mr. Chairman: Seventy. Do you have it in front of you?

Mr. Bullbrook: I'm sorry.

Mr. Chairman: Now we'll wait until Mr. Gathercole has a copy of it.

Mr. Bullbrook: ~~Proceeding with this~~

I want to tell you Mr. Chairman in proceeding with this examination I want to premise what I have to say, in bringing to Mr. Gathercole's attention and the other members of the

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committee, <sup>by saying</sup> that I regard this as somewhat distasteful.

But I feel an obligation to do it, and I want you to know that I do it for a purpose, because I find, sir, that some of the absence of discussion that took place according to the evidence <sup>is</sup> believable but it stretches my ability to believe it.

I want to go over this exhibit with you in detail, because this is a telling document as far as I'm concerned. The wording of it is telling. Mr Gathercole, in the second paragraph in this document it says, "In my subsequent discussion with the chairman he agreed that I should put up the memorandum and sign it as the initiating party. I will then discuss who in addition to myself will sign the memorandum."

From the document itself ~~about~~ we know exactly when you and MR. Candy had the discussion. You must have had it <sup>in</sup> the latter part of June 5, or early on June 6. It had to be, because he says he met with <sup>Messrs.</sup> ~~the~~ Sisson, <sup>S</sup> Durand, Gordon and Mink on the fifth and he met subsequently with you, and the document itself is dated the sixth.

Now I'm going to put these things to you as I read the document. I read that you had a discussion with Mr. Candy and you said this to Mr. Candy, in effect, and I want you to correct me where my interpretation as to what went on is in error. You said to Mr. Candy, "The time has come, Ken, that we are in a position that we can prepare <sup>a</sup> memorandum. We can go ahead with our project, and there are certain things that have to be covered in this memorandum".

Now I want you to stop me when you feel <sup>that</sup> to the best of your recollection, I'm not correct, MR. GATHERCOLE.

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C.B.

~~(Mr. Bullbrook)~~~~you said~~

Mr. McCallum: No, no, Mr. Chairman, with great respect, I object to that kind of a question. It is awfully hard for a witness to understand when in a narrative there is something he objects to. He may object, for instance, to the choice of a word. We've seen that sort of thing happen in the ~~past~~ past. <sup>I'm sure,</sup>  ~~Surely~~ Mr. Bullbrook, you can find a better way of doing it than to do it that way sir, please.

Mr. Chairman: I agree.

Mr. Bullbrook: Do you agree, Mr. Chairman?

Mr. Chairman: Yes, I think so. <sup>If you would</sup> ~~ask~~

him questions, Mr. Bullbrook, rather than getting a general agreement and leaving it up to him to say <sup>that</sup> that is wrong or that's ...

Mr. Bullbrook: Well, I don't want to be unfair in this respect, but it is very difficult for a person to recall the actual discussion that took place. I want Mr. Gathercole to tell me whether I am right or wrong in the impression that I get from this memorandum as to the discussion he had with Mr. Candy.

Mr. Chairman: All I'm suggesting is, don't leave it up to him to stop you. You maybe go ahead with your narrative and say, is that right that far?

Mr. Bullbrook: That was exactly what I intended to do.

Mr. Chairman: I think you put the <sup>onus</sup> ~~onus~~ on him to stop you.

Mr. Bullbrook: All right, fine. You had a discussion

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C.B.

(Mr. ~~Err~~ Bullbrook)

with Mr. Candy and at that time you said, "One of the things we have to cover in light of the ~~the~~ circumstances is the reason why we are building the building at our site at College and University." Is that correct?

Mr. Gathercole: You recognize, Mr. Bullbrook, that I didn't receive a copy of this memorandum.

MR. Bullbrook: I ~~was~~ realize that.

Mr. Gathercole: But Mr. Candy did raise the question with me as to who <sup>should</sup> ~~to~~ sign it, ~~and~~ I think I have explained in the past that the head office building <sup>was</sup> ~~is~~ one that fell into rather special circumstances. We have seen that in <sup>the</sup> ~~a~~ ~~normal~~ normal case of buildings Mr. Candy would follow the procedures for signing that are set out for those buildings. <sup>in</sup> ~~to~~ other words, Mr. Taylor and Mr. Pat Campbell, P.J. Campbell, and the general manager. But since this was not a building for regional administration or for a power plant it took a special position in which Mr. Taylor and Mr. Campbell were not directly involved, but MR. Sissons was involved and was looking after and responsible for providing space accommodation for the staff.

Now as to this first question that you raised <sup>as to</sup> ~~why~~ the head office building should be at University Avenue and College Street ~~rather~~ rather than some other location, as you well realize the Leader of the Opposition <sup>+</sup> had strongly stated that it should not be in Toronto but should be elsewhere, and so we recognized <sup>and</sup> ~~as~~ that this would be a matter of discussion and debate and counter opinion.

Mr. Bullbrook: ~~Mr. Chairman and to you Mr. Gathercole that's exactly what I'm attempting...~~

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AA

(Mr. Gathercole)

~~CONFIDENTIAL~~

Mr. Bullbrook: Mr. Chairman and to you, Mr. Gathercole, that is exactly what I am attempting to elicit, in connection with this examination of Mr. Gathercole. And I entirely agree with you that there has been ample evidence as to the reason why there should be that section in the memorandum, because Hydro itself has exhibited newspaper clippings ~~whereby~~ whereby the Leader of the Opposition had been evidenced as voicing some displeasure with the location of the head office.

Mr. Gathercole: That is true. We are well aware of it.

Mr. Bullbrook: So it is essential here, and I don't want to waste the committee time, I am sorry, but I find it very important ~~to~~ for my understanding of what went on.

I take it, then, that there was a discussion between you and Mr. Candy on that occasion that resulted in clause (a), that is, a discussion that said we should cover the choice of location.

Mr. Gathercole: That is possible. That is possible. I don't ~~recall it~~ <sup>recall it</sup> of ~~elated~~, I remember ~~...~~.

Mr. Bullbrook: Clause (b) talks about the integration or the ~~mixing~~ bringing together of the Hydro staff. Might that well have also been a point of your discussion with Mr. Candy at that time?

Mr. Gathercole: Yes, it could conceivably ~~have been~~ <sup>have been</sup>.

Mr. Bullbrook: Right. Clause (c), it says, referencing what would be done with 620 University Avenue. Might that have been a part of your discussion?

Mr. Gathercole: It was part of our overall thinking on the subject and the need for having reasons which warranted ~~us~~ <sup>our</sup> proceeding in Toronto rather somewhere



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AA

(Mr. Gathercole)

else and of taking the steps that we did.

Mr. Bullbrook: I want to pass over to page three, the last two paragraphs. The second last paragraph, in effect, is a general comment on the economics of the situation. Might that also have been part of your ~~xxxx~~ discussion - the feasibility?

Mr. Gathercole: It could be.

Mr. Bullbrook: I want to now pass back to page two. Now, we have the reasons for recommending a developer, and I put it to you on the evidence that the developer that is being referred to here is Gerhard Moog.

Mr. Gathercole: Well, I think, MR. Bullbrook, we went over this before, and I think in the end it was concluded that there was a strong inference that it was Canada Square.

Mr. Bullbrook: Now that - you see, this is where I am caught in a bind. I used<sup>#</sup> purposely, and it is not to catch you - I used the phrase "Gerhard Moog" there, the name. From my reading here, we are not talking ~~xx~~ about Canada Square. If you read this, these are Mr. Candy's words, and I appreciate that we must examine Mr. Candy as to his intention, but I want to get at that discussion because, and I am not being semantic in this, ~~George~~ <sup>James</sup> (-) said. "His past experience in carrying out similar projects on a lease-purchase agreement."

Now, that is a very personalized ~~xxxx~~ phrase. It is not "its." ~~And~~ I say, Mr. Chairman, it is not a semantic here. I want to know, in your opinion, was there any discussion or in your recollection, was there a discussion with Mr. Candy that referenced Gerhard Moog?

Mr. Gathercole: No.

Mr. Bullbrook: There wasn't?

Mr. Gathercole: Not that I can recall, no.



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AA

(Mr. Gathercole)

Absolutely not.

Mr. Bullbrook: So the choice of the word "his" in reference to Canada Square is the choice, that is Mr. Candy's choice?

Mr. Gathercole: That is his word. That is the word that he employed. I could visualize "his" being employed to represent a company or someone who is associated, but, in effect, and in fact, construing it to be the company and not the individual. Because certainly our interest was not in Moog, but rather, I presume, in Canada Square, if that were the developer.

Mr. Bullbrook: Yes, well I accept your evidence in that respect totally. You are telling me that, to the best of your ~~recollection~~ recollection, in discussing this matter of the choice of the developer and ~~the~~ the reasons for the choice of the developer, you didn't mention the name "Gerhard Moog." You talked about Canada Square.

Now, I am going to get to the focal point that ~~causes~~ causes me concern. As we go through this and we talk about the choice of location, the bringing together of the staff, the economic feasibility

H 10081056 -- 1 follows



(Mr. Bullbrook)

~~the bringing together of the staff, the economic feasibility.~~

~~each~~ One of these things, as I recall the evidence, had at one time or other been brought to the attention of government.

You discussed lease-purchase ~~with the Premier?~~

Mr. Gathercole: Oh, yes, absolutely. In discussing lease-purchase, I was just wondering ~~←~~

Mr. Bullbrook: You discussed the site, Mr. Gathercole, because we know from your evidence from McKeough, he wanted it to be ~~an~~ aesthetically attractive and integrated so you must have discussed that.

Mr. Gathercole: Right, that's right. I was just thinking whether it embraced them all. That is ~~where~~ <sup>why</sup> I was pausing.

Mr. Bullbrook: Well, you did discuss the economics of it, ~~because~~ that had to do with the question whether ~~you~~ <sup>you</sup> used capital funds.

Mr. Gathercole: Yes, I ~~was~~

Mr. Bullbrook: The only thing you didn't discuss, the only thing that never was discussed from June of 1971 to July or June of 1972, was who the developer was going to be. The only thing that, ~~was~~ according to your evidence and the evidence of other people, the only thing that Hydro never discussed ~~was~~ with anybody in government was who was going to get the job.

Mr. Gathercole: That's right, because at that time nobody knew who was going to get the job. ~~There~~ There was no decision made as to who would get the job.

Mr. Bullbrook: When you talked about the four proposals or developers ~~was~~

Mr. Gathercole: Yes, that's right.

Mr. Bullbrook: Canada Square was never named?

Mr. Gathercole: No.

Mr. Bullbrook: Ellis-Don, Y and R, Horizon were <sup>named</sup> never ~~named~~?

Mr. Gathercole: Never named, no.

Mr. Bullbrook: None of them ~~was~~ <sup>was</sup> ever named?

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Mr. Gathercole: None of them ~~was~~ <sup>was</sup> named,

because we didn't know at that time. Indeed, it wasn't certain even by June 29 as to who would be and that was the time ~~for~~ <sup>of</sup> the first submission in connection with it. By that time the recommendation had come to us.

Mr. Bullbrook: I put it to you, sir, that long before June 29, Hydro had made up their mind that it was going to be Canada Square, long before June 29.

Mr. Gathercole: There was a leaning in that direction, depending on what you mean by long before that, but I can think of even after ~~that~~

Mr. Bullbrook: In ~~the~~ April of 1972, I put it to you that the leaning was rather pronounced in ~~Canada Square~~ <sup>in the</sup> favour of Canada Square and ~~you~~ <sup>you</sup> were apprised of this.

Mr. Gathercole: Well, ~~in the~~ <sup>in the</sup> April 10th document there was a reference to Horizon and Canada Square, yes.

Mr. Bullbrook: Well, as I said, this has been distasteful but I want to say to you that I find it very difficult to understand how, in all the discussions between Hydro and government officials, everything contained in ~~memoranda~~ <sup>it's possible that</sup> had been discussed with the government ~~except~~ who was going to get the job. There had almost been a studied silence as far as who was going to get the job.

Mr. Gathercole: I don't know exactly what a studied silence was, but I would say this, that the whole matter was open for deliberation, consideration, and for decision making and ~~even~~ after the release of July 21st, it ~~too~~ <sup>sh.00</sup> wasn't an open ~~and~~ <sup>is</sup> shut case in favour of Canada Square. It ~~would depend~~ <sup>depended</sup> upon negotiations and I can recall, even as late as October 26th, ~~as~~ <sup>is</sup> saying that if there ~~were~~ <sup>were it</sup> some adjustments made on this, then as far as I was concerned, there was no deal, no arrangement.

Mr. Bullbrook: So your evidence ~~then~~ <sup>is</sup> to close out this examination, ~~as far as~~ <sup>that as</sup> any discussions you had with government ~~were~~ <sup>to</sup> to the best of your knowledge, any discussions that any of your people at HYDRO had up to June 6, 1972, there had been no mention of the fact that one of ~~the~~ <sup>is</sup> the developers was Canada Square?

Mr. Gathercole: I hadn't mentioned to any of them who the developers were, yes; to any of them.

Mr. ~~Russ~~ Bullbrook: Thank you, Mr. Chairman.

Mr. Chairman: Thank you, MR. Bullbrook.

Any other questions on this point, this document? Mr. Glen Hodgson.

Mr. R. G. Hodgson: Mr. Chairman, in the course of events, Mr. Gathercole, the matters for any such proposals that come to the commission would always be supported by someone in the staff and be signed; do ~~you~~ <sup>I</sup> gather that's the way a submission is made to the commission?

Mr. Gathercole: That is the procedure as followed uniformly, consistently. <sup>The</sup> ~~These~~ recommendations for purchases or contracts emerge from the management line staff after analysis.

~~Mr. R. G. Hodgson: But regardless of what~~



(H-1057 to follow)

H-1057-1

~~(Mr. Gathercole)~~

~~line staff, letter analysis~~

Mr. R. G. Hodgson: But regardless of what the staff itself may have concluded, or what a decision that they feel would be justified, it would always be supported by a document or a recommendation by the staff to the commission for their consideration in any similar thing?

Mr. Gathercole: It has to be. Yes.

Mr. R. G. Hodgson: Thank you.

Mr. Gathercole: I know of no exceptions that I can think of, unless it be where some association is writing in and asking for a contribution to some scientific purpose, and that would be to my mind the only exception of which I have knowledge. That doesn't mean that all the recommendations are decided that way by ~~the~~ ~~xxxx~~ the commission, not by any means.

Mr. Chairman: Mr. Shibley.

Mr. Shibley: Mr. Gathercole, just to complete the area that Mr. Bullbrook was examining you upon, was there any reason in the minds of yourself and other people within Hydro for not disclosing the name of the various developers who were dealing with Hydro on the head office building?

Mr. Gathercole: No, I had no conscious reason for not disclosing those names. This follows a procedure which we use in entering into other contracts. We don't submit to any government official the names...

Mr. Shibley: I am not suggesting that it was a matter of submission, but Mr. Bullbrook has developed a point that in summary the evidence would indicate that everyone is saying that at no time was anything said by anyone in Hydro to anyone in government which would indicate who it was that was negotiating for this project, and I want to know whether that was, as you put it, a conscious effort on your part or not?

Mr. Gathercole: I am sorry, I think you must have misconstrued, or I employed the wrong words in saying it was a conscious effort to avoid it. I was just simply ....



H-1057-2

Mr. Shibley: You said it was not a conscious effort.

Mr. Gathercole: That's right.

Mr. Shibley: Yes.

Mr. Gathercole: And that makes a lot of difference.

Mr. Shibley: No, no. But that is the question I am putting to you. You are saying it was not a conscious effort on your part.

Mr. Gathercole: No. That exactly.

Mr. Shibley: And notwithstanding that circumstance that <sup>accidentally,</sup> you didn't even ~~accidentally~~ therefore, mention it in ~~the~~ the course of any of your conversations.

Mr. Gathercole: No, I did not.

Mr. Shibley: I was using the term earlier you wouldn't have mentioned it ~~collaterally~~, and by that I mean even incidentally to any other discussion.

Mr. Gathercole: No.

Mr. Shibley: You say you never mentioned it. Is that correct?

Mr. Gathercole: I haven't in other respect, either, when we enter into very large contracts with companies.

Mr. Shibley: Let's not get into other contracts. The point of the matter is, that your testimony is that without it being a conscious effort on your part, for some business or other reason, it was never mentioned.

Mr. Gathercole: Yes.

Mr. McCallum: Mr. Chairman, I wonder, in saying that, I wonder if the committee are conscious of the fact that as Mr. Shibley developed the evidence this morning that there were only the two touching of the bases that took place after, I suppose you could say, the developers were even known, and I am not so certain that they were known other than to the staff of Hydro. There was first the Pickering opening on February 25, 1972, if you recall, and there was ~~that~~ the letter of May 16, 1972 that referred to Darcy McKeough, but up to that time "Hydro" which is the term used by Mr. Bullbrook, in part knew about the developers; Hydro in another part didn't, as the evidence was. You recall that in fact

H-1057=3

(Mr. McCallum)

members of the Hydro Commission didn't even know about them until later, and certainly no choice had been made at that time, because no choice was made until the commissioners chose a developer on July 19, as I recall, and I am not certain in the examination that has just been going on that that point was clear. I know that Mr. Bullbrook wasn't in any sense trying to make it difficult <sup>FOR</sup> ~~he~~ Mr. Gathercole. ~~It is not correct to use the general term "Hydro" and I think he did so without basis in any way, but I recall the evidence.~~

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(Mr. McCallum)

~~It is just that he~~ It is just that he used the general term "Hydro" and I think he did so without guile in any way, but I recall the evidence that there was that sense of the time coming for the decision to be made which had to be made by the ~~executive~~ commission. It was the burden of a lot of evidence, if you remember, in the early <sup>19</sup> days, and they finally said that the decision had been ~~made~~ made on the 19th <sup>of</sup> July.

Mr. Shibley: It's a sign of the times when <sup>we</sup> start talking about "the early days" of this commission.

Mr. McCallum: It is a very accurate sign of the times the early days.

<sup>pp</sup> Mr. Bullbrook: I want to clarify one thing, and I appreciate Mr. McCallum's comment. I think the last, or the second last question I did put was <sup>as to</sup> Mr. Gathercole's discussions or those within Hydro of whom he had knowledge.

Mr. McCallum: I'm sorry, sir, I wasn't made ~~as~~ aware of that. I just wanted to make sure that <sup>no</sup> other members of the committee who might not be as familiar with the evidence as you are, or I am, on this particular point, might have been led into believing that when you were speaking of Hydro you thought in terms of the definite decision-making process, which would be by way of the members of the commission finally.

Mr. Bullbrook: I must confess, ~~perhaps~~ there, perhaps, counsel for Hydro and I ~~don't~~ don't have a meeting of the minds. ~~Perhaps~~ Perhaps from a legal point of view, June 29th was somewhat ~~definitive~~ definitive. My ~~particular~~ particular reception of the evidence is that there was a significant disposition towards Canada Square before that time.

Mr. McCallum: Oh yes, as Mr. Gathercole <sup>said</sup> there was with the others, there was ~~this~~ this leaning that he speaks of, no question about that.

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Mr. Allan: Mr. Chairman, I wonder if I might ask

Mr. <sup>th</sup>Gathercole one question before you proceed.

Mr. Chairman: I think you are entitled to one,

Mr. Allan.

Mr. Allan: My impression of the discussion<sup>s</sup> that

took place between yourself ~~of~~ members of your staff and government, was that there was really no discussion of details in connection with the building of the building. Am I right in assuming that?

Mr. Gathercole: That is correct. As far as I am

aware.

Mr. Shibley: That is what I was trying to develop

earlier with you today Mr. <sup>th</sup>Gathercole. I was wondering whether your approach to the political side of getting your building, if I may use that expression, was just, ~~was~~ so to speak, <sup>tu</sup>touch base long enough to see whether you were going to get a negative response, without ever presenting them with the formal material necessary to examine into it in depth. That was the very point I was trying to put to you this morning.

Mr. McCallum: I thought you had put <sup>it</sup> to him several

times and ~~that he has answered them~~

Mr. Shibley: Yes, ~~as~~ well that, I think, is

what Mr. Allan is getting at now, and I think that is a fair question.

Mr. McCallum: But didn't you think you got your

answer, sir, this morning too? Aren't we just treading back in again where we have been?

Mr. Allan: I don't think we got definite answers.

Mr. Shibley: I agree with Mr. Allan. I would like

the record clear on that score. Mr. Gathercole, wasn't it a fact that your whole approach to getting government ~~approval~~ approval to the extent that it was necessary in ~~a certain~~ the sense of avoiding a veto, was simply to throw off enough ~~and~~ information along the way to enough people that if you ~~if~~ didn't get a "no" you were going to go ahead.

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Mr. Gathercole, I would say, Mr. Shibley and Mr. Allan, that this was a matter, as I have said before, in which we did exercise responsibility in the matter of the building and that we were proceeding with the building. We recognized that if economic circumstances were ~~an~~ adverse, or if there was some conflict, then the government was in a ~~position~~ position to direct Hydro not to proceed with the building, and we recognized this. <sup>if</sup> But we didn't get that, yes, we were going to proceed with it because we had been frustrated for four and a half years, we thought that we could best serve the interests of the power users by getting ahead, and erecting this, saving them, perhaps, \$4 million a year.

Mr. Shibley: Well, all right.

Mr. Gathercole: I don't know what more I can say.

Mr. Shibley: <sup>I'm sorry, Mr. Allan,</sup> I can't elicit anything more on that.

Mr. Allan: I got a better answer, <sup>than you did.</sup>

Mr. Shibley: I think you did.

Mr. Gathercole: I mentioned the \$4 million saving to the ~~an~~ power users.

Mr. Shibley: Mr. Gathercole, I am necessarily jumping from topic to topic because I ~~don't~~ <sup>don't</sup> intend to go over all the evidence that we have already covered. I only want to go over those things <sup>ings</sup> that are new, so to speak, by reason of evidence of other people. ~~You have heard Mr. Cooney testify that in February of 1972~~

(Tape H.1059 follows)

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2.35 - 2.40 pm

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AA

(Mr. Shibley)

~~evidence of other people~~ You've heard Mr. Cronyn testify that in February of 1972, Mr. Smith of Ellis-Don voiced ~~several~~ complaints to him referable to the manner in which Hydro was handling the letting of this contract. You've heard that testimony, have you?

Mr. Gathercole: Yes, I did.

Mr. Shibley: I want to know whether you had any conversations with Mr. Cronyn.

Mr. Gathercole: None whatsoever.

Mr. Shibley: At that time or any other time.

Mr. ~~Gathercole~~ Gathercole: I never discussed it with Mr. Cronyn. He has never approached me in connection with it.

Mr. Shibley: All right. And would this hold true as for the period after November ~~21~~, 1972.

Mr. Gathercole: Yes.

Mr. Shibley: And did you have any conversations with Mr. Cronyn right down to today?

- Mr. Gathercole: Well, I have seen him here and I have exchanged greetings with him.

Mr. Shibley: No, I mean about Hydro handling this building.

- Mr. Gathercole: No I haven't. NO. He has never used that word with me. Otherwise I might have taken some umbrage.

Mr. Shibley: What word?

Mr. Gathercole: "Sloppy."

Mr. Deans: He ~~wasn't~~ wasn't referring to you personally.

Mr. Shibley: I see. So you never discussed that aspect of the matter with him. Did you discuss any other aspect of these proceedings with Mr. Cronyn.

Mr. Gathercole: No.

- Mr. Shibley: All right. Then on July 14th, 1972, a letter was sent from Mr. Smith to Mr. Cronyn, which is exhibit <sup>and</sup> 175 ~~the~~ the original exhibit is before, and in that letter, there

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AA

(Mr. Shibley)

is a reference to a discussion between Smith and Ernie Jackson about the Hydro job and he, meaning ~~Ernie~~<sup>Ernie</sup> Jackson, arranged a meeting with George Gathercole. ~~Would~~ Would you please ~~tell~~ tell the members of this committee what you remember about Mr. Ernie Jackson's effort with you to arrange that meeting.

Mr. Gathercole: Ernie Jackson telephoned me and asked me if I would see Don Smith who had submitted a proposal on the Hydro and asked me if I ~~would~~ would see Don Smith and I said I would be ~~glad~~ glad to see him. <sup>If</sup> /Mr. Smith had telephoned me, I would have done the same thing.

Mr. Shibley: Was there any other content in your discussion with Mr. Jackson referable to the head office building, or referable to Ellis-Don.

Mr. Gathercole: No, there wasn't.

Mr. Shibley: Did he make any reference to the circumstance Ellis-Don were unhappy about the manner in which they were being treated.

Mr. Gathercole: He didn't to me, no. He said that Don Smith was ~~interested~~ interested in obtaining the job.

Mr. Shibley: And nothing more.

Mr. Gathercole: No.

Mr. Shibley: Did you make any observation to him?

Mr. Gathercole: No.

Mr. Shibley: When did Mr. Jackson call you?

Mr. Gathercole: Well, I would judge it was a few days in advance of this. I don't know whether it was a week or a few days in advance of this.

Mr. Shibley: You notice that Mr. Smith's letter goes on to say; "It was apparently a courtesy meeting and George could hardly wait until it was over."

I am taking the "George" that is ~~referred~~ referred to as being ~~yourself~~ yourself.

Mr. Gathercole: ~~That~~ That is . . . .



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H 1059 - 3 AA

(Mr. Shibley)

Mr. Shibley: Have you any comments to make?

Mr. Gathercole: I don't doubt that it was me to whom he is referring. Mr. Smith came in to see me and said that he was interested in the contract. He said nothing whatsoever about having a grievance at all. He was interested in it. And I said to him that we were considering proposals but it did not appear - did not appear that he was going to be the company to whom the contract would be awarded. Now that is all I mentioned to him at the time and he said nothing to me whatsoever about feeling ~~unhappy~~ about it or feeling that he was under some sense of unfairness.

Mr. Shibley: Did he mention to you that he had talked to John Cronyn?

Mr. Gathercole: NO.

Mr. Shibley: Was there any mention by him of his discussion with Mr. Jackson?

Mr. Gathercole: He hadn't mentioned anything that Jackson had said. I knew, of course, it was ~~Ernie~~ Ernie Jackson who had arranged ~~the~~ the meeting, but he didn't say anything as to Ernie Jackson's observation.

Mr. Shibley: He goes on in the letter and says, "He", meaning you, "did mention that he liked to deal with someone who had previous experience with the government" ( who was ~~obviously~~ obviously Moog) and who also had previous experience in management."

H 1060 - 1 follows

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(Mr. Shibley)

~~and obviously not, and the client was not in~~  
~~management.~~ Now, Mr. Gathercole, do I take it from that that neither did you reference names of other developers and particularly that of Canada Square in your discussions --

Mr. Gathercole: I didn't mention Canada Square to him. I did not mention Canada Square to him, and that reference to someone who had government experience --

Mr. Shibley: Yes.

Mr. Gathercole: Is obviously his own phraseology. It is an illustration of how words sometimes don't mean what they are intended to mean, because Ellis-Don had considerable experience of government business in one way or another and so it couldn't have been that. What I must have said, although I don't recollect the exact words, is ~~someone~~ someone who has had experience in lease-purchase arrangements which ~~he~~ his company did not possess at that time.

Mr. Shibley: Well, I want to be clear on this, Mr. Gathercole. His wording is: "who had previous experience with the government and who also had experience in management."

Mr. Gathercole: The experience in management is --

Mr. Shibley: I want to know did you say anything to Smith which would lead him to report to John Cronyn that you had said that you wanted to deal with someone who had previous experience with government and who also had experience in management? ~~Did~~ Were those the two qualifications that you were laying down?

Mr. Gathercole: Not the former, not the former. Mind you I don't recollect. To go back to that time, which is a year ago and say just ~~the~~ exactly the words that I employed at that time is, in my opinion, not realistic, but on the other hand, I may conceivably ~~have~~ have said ~~that~~ someone who had experience in lease-purchase arrangements and in the management of a building. That is possible but I don't say I said that.

Mr. Shibley: Did you mention anything about the fact of one developer having had experience doing a lease-purchase



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(Mr. Shibley)

agreement with the government?

Mr. Gathercole: I didn't identify the company.

Mr. Shibley: No, I know you didn't, that's what you have said.

Mr. Gathercole: Yes.

Mr. Shibley: I asked you did you mention that one of the developers had had experience ~~in~~ doing a lease-purchase transaction with the government?

Mr. Gathercole: That, I don't know, Mr. Shibley.

Mr. Shibley: All right. Then on the next page --

Mr. R. G. Hodgson: Mr. Shibley, before you leave that, it is quite obvious from the letter I believe that you did mention one of the weaknesses of Don Smith's proposal or Ellis-Don's proposal would be the management function.

Mr. Gathercole: Yes.

Mr. Shibley: Yes, that is so, isn't it, Mr.

Gathercole?

Mr. Gathercole: I ~~am~~ possibly did but I --

Mr. Shibley: All right. Going on to the next --

Mr. Gathercole: I don't remember the content of the thing, I may recall the thrust of the conversation but I don't remember the --

Mr. Deans: May I ask just one thing? Did you consider the meeting with Mr. Smith very important? Truthfully, ~~did~~ did you ~~Mr. Gathercole~~ think it was a very important meeting?

Mr. Gathercole: I didn't think it was - you know, a meeting of earth shattering ~~important~~ importance. We had had ~~the~~ submission made to the commission recommending Canada Square.

Mr. Deans: He had been ruled out and you just didn't really think that that meeting with him was - ~~he~~ only did it because Ernie Jackson called.

Mr. Gathercole: And if he had called himself I would have done it.

Mr. Renwick: Mr. Chairman.

Mr. Chairman: Mr. Renwick.

Mr. Renwick: Mr. Gathercole, during that meeting with Mr. Smith, did you discuss his proposal with him?

Mr. Gathercole: No, I didn't.

Mr. Renwick: Did he discuss his proposal with you?

Mr. Gathercole: No.

Mr. Renwick: But you did raise the question of previous experience and management?


Mr. Gathercole: He has it in the letter there and it is conceivable that I made that observation, and somebody who had lease-purchase experience. Those two phrases are possibly --

Mr. Renwick: Mr. Gathercole, again we are all having great difficulty, and we are going to have immense difficulty in the committee with the evidence. What did you discuss with Mr. Smith or what did Mr. Smith discuss with you? He must have come to the meeting with a purpose. Now, what did he discuss with you?

Mr. Gathercole: Well, he said he was interested in obtaining the contract, and to erect Ontario Hydro's administrative building; and I, at that time, advised him that ~~it was not possible as~~

~~I think it was not possible as~~

(H-1060 1061 to follow)



H-1061-1

(Mr. Gathercole)

~~As I said, I didn't know at the time~~ as nearly as I can think, that it did appear, ~~and~~ I didn't know at the time definitely as we hadn't made a decision at that time, that he wasn't going to be the successful bidder. And that was the essence of it.

Mr. Renwick: In ~~other~~ other words, at this meeting you informed Mr. Smith that he was not going to be the successful bidder?

Mr. Gathercole: Not in those words, Mr. Renwick, but rather that it did appear at that time that he would not be the successful bidder.

Mr. Renwick: Let me put it this way, without asking anyone to recall the precise language which was used, you left it unmistakably clear to Mr. Smith, in a very brief conversation, that he wasn't going to get the job. Any sophisticated businessman would walk out ~~of~~ of the office with that conclusion. Would that be a correct assessment of what took place?

Mr. Gathercole: Yes, believing his chances of obtaining it were rather remote.

Mr. Deans: He had none at all really.

Mr. Gathercole: Nothing is, until a document is signed, nothing is ever closed in this, in other matters as well. You never can tell about things.

Mr. Renwick: No, but in this life of travail and uncertainty that we all participate in, and apart from the two things which are certain, it was relatively certain on July 14 that Canada Square were going to get the job unless Canada Square made some terrible mistake.

Mr. Gathercole: Yes.

Mr. Renwick: That would be fair, wouldn't it?

Mr. Gathercole: I would accept that.

Mr. Renwick: And it was also fair at June 1 that Canada Square was going to get the job?

Mr. Gathercole: I wouldn't say that, Mr. Renwick. As I say, my procedure is to keep options open.

July 9/73  
2:45 - 2:50 pm  
CA

H-1061-2

Mr. Renwick: I recognize Mr. Gathercole, that you were keeping the options open, and I can understand a person charged with the chief executive responsibility in an organization keeping the options open. I think there are many examples of that. What seems to come through to me is that the commission played a pretty nominal and formal role in connection with the decision, and that from June 1 on, for whatever the reason, the process of approval of the head office transaction accelerated through to ~~the end of~~ July 19.

Mr. Gathercole: I think that is true.

Mr. Renwick: I don't know what that all means to me but that is the way ~~it was~~ <sup>it was</sup> ~~expressed~~ <sup>it was</sup> ~~to me~~ <sup>it was</sup> to me.

Mr. Chairman: It is a line of question anyway, Mr. Renwick.  
Mr. Shibley.

Mr. Shibley: That is quite an admission from Mr. Renwick! I would like to just ask a few more questions about this July 14 letter, Mr. Gathercole. In the course of your conversation with Mr. Jackson which led to the meeting with Mr. Smith, did Mr. Jackson make any reference whatsoever to Mr. Moog or Canada Square?

Mr. Gathercole: No.

Mr. Shibley: Now, then, on the second page of this letter Mr. Smith says;

"I talked to Joe Barnicke last week and he suggested that I might jeopardize any future dealings with the government if I stirred anything up on this job".

Have you ever had any discussions with Joe Barnicke referable to the Ellis-Don position?

Mr. Gathercole: I don't think I have ever met Joe Barnicke. I don't know him at all. It may be that at some meeting, or on some occasion that I was introduced to him. ~~I am only saying that to protect myself.~~

H-1062-1 follows



July 9/73  
2:50-2:55pm  
C.B.

(MR. Gathercole)

~~meeting and some occasion that I was introduced to him~~

~~and~~ I'm only saying that to protect myself in case he comes around sometime and says to me, "Hello George".

~~Archie, because I do not recall you did.~~

Mr. Shibley: I have to tell you Mr. Gathercole that I noticed that in the first exchange between yourself and Mr. Fleck you were - you wrote to him "dear Jim" and he wrote to you "dear George".

Mr. Gathercole: Jim of course, I knew Jim through conversations with respect to Task Force Hydro and I'd known him before that.

Mr. Shibley: He told me that.

Mr. Gathercole: I do know a Bill Barnicke, but I don't know Joe Barnicke, as far as I'm aware, and I've never had any discussions with him at any time on anything.

Mr. Shibley: All right. Now did you ever hear from Mr. Cronyn following July 14, 1972.

Mr. Gathercole: No.

Mr. Shibley: Referable to anything that's contained in this letter.

Mr. Gathercole: I haven't heard one word from John Cronyn with respect to this matter. Not a single word at any time.

Mr. Shibley: All right. During the course of the period June 1971 through til November or December 1972, did you receive any communication, oral or in writing, from any person or a copy of any communication between two other parties referable to the letting of this contract?



July 9/73

2:50-2:55pm

c.b

Mr. Gathercole: No that I know of, I have no knowledge and your question is so ~~embarrassing~~ <sup>increasing</sup> that I just don't completely...

Mr. Shibley: You ~~was~~ see, I have here a letter passing between Mr. Smith and Mr. Cronyn and I'm only concerned to know whether you ever got a copy....

Mr. Gathercole: Absolutely not.

Mr. Shibley: ....of any such letter as between two people on behalf of Ellis-Don or....

Mr. Gathercole: Mr. Shibley and gentlemen, I didn't even know John Cronyn was a director of Ellis-Don...

Mr. Shibley: Well quite apart from ...

Mr. Gathercole: ..until he stated it here.

Mr. Shibley: I don't want to distract you, Mr. Gathercole, I'm just anxious to be complete again. Do I take it that at no time within the period I've mentioned did any communication between others on behalf of Ellis-Don come to your attention? Is that correct?

Mr. Gathercole: Absolutely not; nothing. Until this meeting.

Mr. Shibley: Now then I want to move on to September, and you've heard the evidence of Mr Seguin following your own as to the circumstances of a meeting on September 1, 1972.

Mr. Gathercole: Yes.

Mr. Shibley: It was a pre~~commission~~ meeting in your office he said.

Mr. Gathercole: Did I say that Mr....

Mr. Shibley: NO, he said that.

Mr. Gathercole: Oh I beg your pardon.

July 9/73  
2:50-2:55pm

C.B.

Mr. Shibley: He in effect ~~said~~ said, I'm looking at Mr. Seguin's evidence at H549, page 2, ~~June~~ June 19, the late afternoon session, at 5:20 that day. "Now what answers did the commissioners and the ~~staff~~ staff give you in that connection." I should go back." Mr. Shibley, it goes on, it seems as if...

Mr. McCallum: Mr. Shibley if you would hold on a moment until we get hold of ours, it helps a great deal.

Mr. Shibley: It is June 19, the 5:20 session, at page 549, <sup>dark</sup> ~~page~~ one. ~~At the very bottom of the page.~~



H1063 to follow



July 9th, 1973

2.55 - 3.00 pm

H 1063 - 1

AA

Mr. McCallum: All right, sir. Thank you.

Mr. Shibley: Now at the very bottom of that page, I start off; "I see. Then it goes on <sup>to say</sup> ~~that~~ It seems as if one person had the inside track, ~~and~~ whereas none of the other people knew what was ~~going~~ on." Now what answer did the commissioners and the staff give you in that connection?"

"Mr. Seguin: Well, the commissioners, again, as I said, they didn't know anything more than I did. The staff - this matter was not taken as a letter, first of all, because I didn't bring it out of my pocket at the meeting."

"Mr. Shibley: Yes."

"Mr. Seguin: I asked certain questions and I was told that everybody was treated the same way, everybody got verbal instructions and specifications."

"Mr. Shibley: Yes. Mr. Gathercole was at that meeting?"

"Mr. Seguin: Yes."

"Mr. Shibley: Did he remain silent or was he the person who was making these observations to you that everyone had been treated the same?"

"Mr. Seguin: - I couldn't tell you."

"Mr. Shibley: You don't know whether he actively . . ."

"Mr. Seguin: He may have made some observations, he may not; I couldn't tell you."

"Mr. Shibley: In any event, whoever made those observations to you, he did not contradict them?"

"Mr. Seguin: No, he did not."

Now, Mr. ~~Gathercole~~ Gathercole, I would like to afford you the opportunity now to comment upon Mr. Seguin's evidence

July 9th, 1973

2.55 - 3.00 pm

H 1063 - 2

AA

(Mr. Shibley)

in respect of the content of the exchange which took place on the morning of September 1, when he posed the questions to the commissioners resulting from the letter he had received from Mr. Smith:

Mr. Gathercole: Mr. Shibley, people's recollections of the ~~previous~~ conversations and even the time of the meeting are at some variance and I am not saying Mr. Seguin is wrong or any of the other commissioners are wrong. I can only give you my own recollection of that. I think that the meeting<sup>it</sup> and it wasn't a meeting; ~~it~~ was simply, as I recall it, <sup>at</sup> the end of one of the commission meetings at which the subject had not been raised at all. ~~that we~~<sup>we</sup> proceeded into my office, prior to going out for lunch, and Mr. Seguin said that he had received a letter from an unhappy or disgruntled contractor. He didn't divulge the letter. He didn't say who the ~~sender~~ was, although I asked him who it was. He said it was personal and confidential and, "I shouldn't reveal it, but you had better be sure of your ground or be sure of your facts," words of that nature. Now, whether the equal opportunity came in, I can't swear to that because I don't know, but I remember the main emphasis in mind ~~it~~ was be sure of your ground or be sure of your ~~fact~~ facts.

So, in the light of this, and his not disclosing it, ~~and~~ my mind jumped to someone, not to Ellis-Don, or anyone else. In fact, at the time, I thought it ~~was~~ just wasn't one of the four developers, <sup>it</sup> ~~it~~ might have been somebody else. But, in any event, we said, ~~that was~~ "Well, we've had these proposals in and they have been gone over by our staff and have been considered." And he said, "Well, just be sure of your ground. Be sure of your facts."

So, as far as my own position<sup>a</sup> was, I knew the proposals had been called. I had had ~~in~~ hand in ensuring that, ~~And that~~ these were being analyzed and ~~analyzed~~ considered and

July 9th, 1973

2.55 - 3.00 pm

AA

H 1063 - 3

(Mr. Gathercole)

certainly, as far as I was concerned, although I knew that Canada Square had been studied from the standpoint of ascertaining what type of an arrangement we could arrive at, and that there was sort of an orientation, in a sense, to Canada Square from the standpoint that ~~that~~ the people ~~that~~ associated with Canada Square liked the building and so on. At the same time, it was certainly my understanding that the proposals submitted by others were analyzed<sup>s</sup> and considered<sup>and</sup> that there was a reasonable and fair opportunity for them to make submissions, not in a detailed way, ~~but rather, in a form which would enable the~~

H 1064 - 1 follows

July 9, 1973  
3.00-3.05p.m.  
B.A.

H-1064-1

(Mr. Gathercole)

but ~~it~~ rather in a form which would enable the staff who were engaged on this, <sup>and</sup> ~~as~~ the commission, to arrive at a sound and fair conclusion.

Mr. Shibley: Mr. Gathercole, do I take from that last answer that, in effect, you did tell Mr. Seguin ~~that~~ every one of the developers had an equal opportunity?

Mr. Gathercole: What I am saying, ~~Mr. Shibley~~, is that I don't know whether the <sup>q</sup> ~~question~~ <sup>to</sup> my mind, the question didn't come up in exactly that way.

Mr. Shibley: Whether the question came up in that way, ~~was~~ the information provided to Mr. ~~Seguin~~ Seguin to the effect that all four developers had had an equal opportunity to succeed in obtaining this job?

Mr. Gathercole: I don't recall, Mr. Shibley; I do not recall the phraseology being used.

Mr. Shibley: I am not concerned with phraseology as such. Mr. Seguin repeatedly gave evidence that he came away from the meeting with the understanding ~~from~~ a variety of sources, ~~actually~~, ~~and~~ including staff, I think ~~that~~ all developers had been treated equally. Now, did you convey that meaning <sup>to</sup> him on the occasion of his having raised the complaints of Ellis-Don, he not having identified the developer?

Mr. Gathercole: I think the difference is whether he would use the phrase "equal opportunity", ~~and~~ whereas to my mind what Mr. Seguin was saying <sup>is, is</sup> ~~everyone on~~ ~~sound ground~~ sound ground in going ahead with this, on equal facts? I know he has ~~given~~ given that statement in evidence, but I am just giving you my recollection of it, but it was my understanding - this is the point I am making, Mr. Shibley - it was my understanding ~~that~~ at that moment ~~of~~ of time, ~~that~~ we had given, and our staff had analysed in a fair way, the proposals that had been submitted.

Mr. Shibley: If that was ~~your~~ your understanding, ~~→~~

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(Mr. Shibley)

whatever was the truth of the matter is for this committee to decide. ~~It~~ that was your understanding, did you, in ~~your~~ turn, communicate that understanding to Mr. Seguin; namely, that everyone ~~that~~ had been treated equally.

Mr. Gathercole: ~~What~~ What I said to Mr. Seguin, as near as I can ~~remember~~ is that I thought we had made the best arrangement for Hydro.

Mr. Shibley: That's not what I asked you, Mr. Gathercole, and it is what makes my examination so prolix. I have asked you now, in at least four different ways, whether what you said in the course of that meeting with Mr. Seguin, led him to the conclusion that everyone was treated the same way, using his own words.

Mr. Gathercole: It was my understanding that every proposal had been examined and carefully viewed and that it was an open competition. Now, as to the....

Mr. Shibley: Did you tell Mr. Seguin that?

Mr. Gathercole: I don't know whether I used those exact words, no. I can't say ~~what~~ what words I used.

Mr. Shibley: Whether you used those exact words or not, Mr. Gathercole, did you in essence tell him that?

Mr. Gathercole: I can't say definitely, Mr. Shibley, on that particular point ~~because~~ we start from a different interpretation of the discussion at that time. My recollection is a little different from that of Mr. Seguin on some of these points. If Mr. Seguin had presented the letter, we could have dealt with it, but he didn't reveal the letter and I presumed it was from some unhappy or disgruntled developer and this is, you know, not completely special or unique, and ~~this, I think, is the regrettable part of it, that the letter was not~~

(Tape H-1065 follows)



H-1065-1

(Mr. Gathercole)

~~special or unique.~~ And this, I think, is the regrettable part of it -- that the letter was not divulged. However that may be, ~~but~~ you are trying ~~to~~, I know, I see your point, you are trying to pin me down; did I mislead Roger Seguin? As far as I am concerned I don't think I did.

Mr. Chairman: Mr. Gathercole, I am reading again from what has just been read:

"Mr. Seguin: I asked certain questions and I was told that everybody was treated the same way, everybody got verbal instructions and specifications."

Now were you present when anything was said that Mr. Seguin could have relied on to make that statement to this committee?

Mr. McCallum: Mr. Chairman, before he answers that, if you will just go on you will find out that Mr. Seguin, in that same course of questions, said he doesn't remember whether Mr. Gathercole made it or not. You will notice that ~~about~~ about two questions further on.

Mr. Chairman: Right.

Mr. Shibley: I have read them already.

Mr. Chairman: They have just been read and I will read them again if you want.

Mr. McCallum: What page is that?

Mr. Chairman: I am reading from page 549-2

Mr. Shibley: 549-2.

Mr. McCallum: Thank you.

Mr. Chairman: "Mr. Seguin: I asked certain questions and I was told that everybody was treated the same way, everybody got verbal instructions and specifications."

"Mr. Shibley: Yes. Mr. Gathercole was at that meeting?"

"Mr. Seguin: Yes

"Mr. Shibley: Did he remain silent or was he the person who was making these observations to you that everyone had been treated the same way?"

"Mr. Seguin: I couldn't tell you."

H-1065-2

"Mr. Shibley: You don't know whether he actively..."

Mr. McCallum: Thank you, Mr. Chairman.

Mr. Chairman: Is that far enough?

Mr. McCallum: Yes, sir, I wanted that point made.

Mr. Chairman: Now the question I was asking Mr. Gathercole

was what led Mr. Seguin to make that first quotation I read to this committee; that is the question -- "I asked certain questions and I was told that everybody was treated the same way."

Were you present, or do you know what statements were made that Mr. Seguin would come to the conclusion that everybody was treated the same way?

Mr. McCallum: Mr. Chairman, if I may, I can certainly understand your asking this witness if he ~~not~~ said it, or words to that effect. I can understand you saying "did anyone else make those statements in your presence?"

Mr. Chairman: I am trying to be all-inclusive; both.

Mr. McCallum: Well, take them one at a time sir, and let's see if we can't get there in the final event.

Mr. Gathercole may well be asked, as I apprehend, whether he made such a statement, and secondly, as I have suggested to you, he may well be asked whether such a statement was made by someone else in his presence. I think those two questions will help you get to the answer you --

Mr. Chairman: I was trying to combine them, but if you want me to ask them separately I will. Did you ask that question, Mr. Gathercole?

Mr. Deans: Did you make that statement?

Mr. Chairman: I'm sorry, did you make that statement that everybody was treated the same way?

Mr. Gathercole: No.

Mr. Chairman: Were you there when anybody else at the meeting made such a statement?

Mr. Gathercole: I presume I was at this gathering, at least most of the time there. I can't say I was there all the time.



H-1065-3

Mr. Chairmaa: Well, do you know?

Mr. Gathercole: It was a completely informal thing. It wasn't a special meeting as has been described. It was a completely informal affairs.

Mr. Chairman: Again, I am trying to be all-inclusive; but do you know upon what Mr. Seguin would be basing that evidence to this committee?

Mr. Gathercole: I don't know.

Mr. Chairman: All right.

Mr. Gaunt: Mr. Chairman, I am wondering if I may ask Mr. Gathercole; as I understand it the only people present at that meeting were the commissioners. Is that so?

Mr. Gathercole: That is correct. At this particular one, yes. The subject came up later at another meeting.

Mr. Gaunt: Would it be fair to say that the only person at that particular meeting ~~was~~ who would be in a position to supply that type of information to Mr. Seguin would be yourself?

Mr. Gathercole: Yes.

Mr. Gaunt: So, in one fashion or another, you must have communicated something along the lines that \_\_\_\_\_

Mr. Gathercole: ~~He is~~ On sound grounds, yes.

Mr. Chairman: Mr. Renwick;

Mr. Renwick: Mr. Chairman, I just want to clear this up so that we are not confused at some later time about it. I take it that you recall the meeting in your office, an informal meeting?

H-1066-1 follows

July 9/73

3:10-3:15 pm

C.B.

(Mr. Renwick)

that I take it that you recall the meeting in your office  
an informal meeting.

Mr. Gathercole: Yes, ....

Mr. Renwick: I refer you to...

Mr. Gathercole: I wouldn't even categorize  
it as a meeting actually.

Mr. Renwick: ~~5~~ Let me ask whether you disagree  
with Mr. Seguin's description of the meeting. At the  
top of page 545 - 3 of ~~Exhibit~~ July 19, in the afternoon  
session of Hansard. The top of the page.

"Mr. Seguin: No, I ~~was~~ raised it at the next  
meeting I attended which was not at the meeting, I am sorry,  
at the next morning of a meeting of September 1, in the  
Chairman's room before all the commissioners that were  
attending, but did not mention the name of the contractor  
because the letter was personal and confidential."

Now my understanding of Mr. Seguin's evidence  
was that ~~he~~ before proceeding into the formal commission  
meeting, that because he had this letter he asked to meet  
with yourself and the other commissioners in your office  
to deal with the matter. Is your recollection the same as  
that and if not in what way does it differ?

Mr. Gathercole: As I say I've given some further  
thought to it. I don't rule out the possibility of it having  
occurred in the morning before the meeting. But my recollection  
of it is that it occurred after the commission meeting on  
September 1. That is my own personal recollections. I know

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C.B.

(Mr. Gathercole)

some other commissioners <sup>that</sup> that it was in the morning before the regular meeting.

Mr. Renwick: Do you recall that it took place in your office?

Mr. Gathercole: Yes I do that, very definitely.

Mr. Renwick: It was not ~~the~~ part of a formal commission meeting.

Mr. Gathercole: Exactly.

Mr. Renwick: And that you were present throughout the whole of it?

Mr. Gathercole: Whether I was present throughout the whole of it is another matter, because they were sitting all morning. They came into my office and I ~~was~~ wasn't there all the time, but I was there through when Mr. Seguin made comments pertaining to this and opened up the subject.

Mr. Renwick: And dealt with the subject.

Mr. Gathercole: Yes.

Mr. Renwick: Not just opened it up, Mr. Gathercole, dealt with the subject to the extent that Mr. Seguin wanted to deal with it that morning.

Mr. Gathercole: He wanted to bring it to the commissioners attention, yes.

Mr. Renwick: Right, and on page 547-1

"Mr. Shibley: All right, the letter goes on, verbally we were given a specification to quote on." Did you raise that with them Mr. Seguin?"

"Mr. Seguin: Yes I did, I asked if it was true that there was a verbal specification or if something had been given in writing.

"Mr. Shibley: Yes, and what was the information.

"Mr. Seguin: The information was that everybody was treated the same way.

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3:10-3:15 pm

C D

Mr. Renwick

Could there have been anybody else in the room but yourself Mr. Gathercole who could have satisfied Mr. Seguin about that?

Mr. Gathercole: I would say not.

Mr. Renwick: Thanks, Mr. Chairman.

Mr. Chairman: Any other questions on this point?

Back to you Mr. Shibley.

Mr. Shibley: NOW MR. Gathercole, in October, on the 2nd of October, the matter of the Seguin comments was considered sufficiently important that a memorandum was issued suggesting that a rationale be prepared respecting the reasons for selecting Canada Square, etc. I don't want to get into the detail. You remember that eh?

Mr. Gathercole: Yes.

Mr. Renwick: Mr. Chairman, could I interrupt Mr. Shibley for a moment.

Mr. Shibley: Yes.

Mr. Renwick: I neglected, I'm sorry, to ask two questions referable to that last meeting. Was there any doubt in your mind that the contractor, the developer to whom Mr. Seguin was referring was at least one of the three others who had submitted proposals, was included in that ~~group~~ group?

Mr. Gathercole: Yes.

Mr. Renwick: ~~Any other questions on this point?~~

11067 to follow

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~~XXXXX~~ 3.14-3.20p.m.  
B.A.

H-1067-1

(Mr. Renwick)

~~XXXXXXXXXXXXXXXXXXXX~~  
~~XXXXXXXXXXXXXXXXXXXX~~  
Mr. Renwick: And was there anything in your mind that would have made you relate that discussion to the visit which Mr. Smith had with you on July 14?

Mr. Gathercole: None whatsoever. None.

As I previously....

Mr. Shibley: Incidentally, Mr. Renwick, to make the record clear, it was July 13. The letter was written the following day.

Mr. Renwick: I'm sorry. The meeting that Mr. Smith had with you, arranged by Mr. Jackson on July 13, was there any, and I am asking you to hesitate until you think clearly about your answer, was there anything that would make you conceivably link the undisclosed person that Mr. Seguin referred to to Mr. Smith who had seen you on July 13 in your office at Mr. Jackson's request.

Mr. Gathercole: None whatsoever. In fact -- I have heard other commissioners mention this, that some thought of one person and some thought of another, and it turned out we were all false.

Mr. Renwick: Thank you, Mr. Chairman. Sorry, Mr. Shibley.

Mr. Shibley: Mr. Gathercole, I had moved forward to October 2, when Mr. Gordon memoed you saying, "Following Roger Seguin's comments at a recent meeting"... and so on, "we should prepare a brief, effective statement on the rationale for Hydro's action with respect to the construction of its new office building. The idea was that we should only use this if the new building became an issue in the newspapers." Do you see that?

Mr. Gathercole: ~~Now~~ Yes.

Mr. Shibley: Now, I gather that as at October 2, therefore, within the senior people at Hydro, there was already developing some feeling that material be prepared to explain Hydro's decision - "should the matter become an issue in the press." Is that correct?

Mr. Gathercole: Yes.

Mr. Shibley: Yes. Now, then, just skipping for a moment and I just ~~was~~ want you to hold on to that document and remember your answer, November 1 was the date of the signing ~~of~~ of the substantive portion of the contract, is that correct?

Mr. Gathercole: Yes.

Mr. Shibley: There was no publication of the fact ~~that~~ that the signing of that agreement on November 1.

Mr. Gathercole: No.

Mr. Shibley: The last release that had been made to the press was on August 25, 1972.

Mr. Gathercole: Yes.

Mr. Shibley: So that as of August 25, 1972, the whole world, so to speak, or at least that part of it which is reached by our press, knew of the decision to contract with Canada Square?

Mr. Gathercole: ~~Yes~~ Yes.

Mr. Shibley: But that so far as the actual execution of the agreements having taken place on November 1, there was no publicity of any kind to anyone.

Mr. Gathercole: Yes, I believe that <sup>is</sup> correct.

Mr. Shibley: And in particular, there was no conversation with Mr. Cronyn wherein he was advised that the contract had been signed on November 1, is that right?

Gath  
Mr. Gathercole: Yes.

Mr. Shibley: You have ~~already~~ already said that you have had no conversation with Mr. Cronyn at any time, is that ~~right~~ <sup>right</sup>?

Mr. Gathercole: That's correct.

Mr. Shibley: And he did not call you to say that he finally felt free to tell you, as he was telling Mr. Fleck at about this time, that he felt Hydro had done a sloppy job. He didn't call you.



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Mr. Gathercole: Never.

Mr. Shibley: Even though he had to do with Task Force Hydro?

Mr. Gathercole: Mr. Shibley he was the, as has been said, the Chairman, ~~of the committee on~~ ~~on~~ Government Productivity and Task Force Hydro was a separate entity, which only reported through the Committee on Government Productivity.

Mr. Shibley: Yes, in fact, the first report of Task Force Hydro to Mr. Cronyn was dated August 14, 1972, isn't that so?

Mr. Gathercole: If you say it ~~is~~ is, it is.

Mr. Shibley: And he was therefore very closely involved, in that indirect sense, with what was going on within Hydro.

Mr. Gathercole: Not in any detail, Mr. Shibley.

~~Mr. Shibley: I didn't consider it as a separate entity.~~

(Tape H-1068 follows)



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Mr. Shibley: In any event, Mr. Gathercole, he didn't consider it part of his function, nor did he consider that he was now free as of November 1 to telephone you to say, "from what I hear from Ellis-Don, you did a sloppy job."

Mr. McCallum: Well, he didn't say it, Mr. Chairman, that's true. I don't know whether he felt himself free to say so or not at that point, but the fact is, as the witness has already said, it wasn't said to him.

Mr. Shibley: He never called you?

Mr. McCallum: ~~He never called me~~ <sup>He never called me</sup> ~~that's true~~ <sup>that's true</sup>.

Mr. Shibley: All right. Now, then, again I remind you that as of October 2nd you were already getting ready should the matter become an issue in the press. Is that correct?

Mr. Gathercole: Yes.

Mr. Shibley: And ~~on~~ on November 2nd, the stories hit the press referable to the ~~Fid~~ Fidinam investigation. Did you read those articles?

Mr. Gathercole: I was aware of the general direction of them, yes.

Mr. Shibley: And did they cause you any concern?

Mr. Gathercole: ~~Yes~~ do you mean in a way associated with this development here?

Mr. Shibley: Yes.

Mr. Gathercole: I wouldn't think so, no.

I mean I ~~recognize~~ recognize it was going to be a matter of controversy

Mr. Shibley: I am sorry, I would like to understand that last answer.

Mr. Gathercole: I recognized that it was, you know, an issue which was going to create ~~an~~ arouse, you know, some concern, yes.

Mr. Shibley: You are talking about the Fidinam matter of the Hydro matter?

Mr. Gathercole: I am talking about the Fidinam matter.

Mr. Shibley: All right, just to keep it clear.

Well, then on November 6th there was a press report referable to

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(Mr. Shibley)

the Hydro project.

Mr. Gathercole: Yes, it was in the Globe and

Mail.

Mr. Shibley: In the Globe and Mail.Mr. Gathercole: Yes.Mr. Shibley: Did that excite some concern on the part of Hydro personnel?Mr. Gathercole: Oh, yes.Mr. Shibley: And, that, I might say, <sup>+D</sup> members of the committee, is already in exhibit 109, the November 6th publication in the Globe. Now, Mr. Fleck has testified, Mr. Gathercole, that Mr. Cronyn discussed the Ellis-Don complaints with him some time prior to the 7th of November, and because Mr. Cronyn was in Florida it was likely ~~discussed~~ on or before the 4th of November. You heard that testimony?Mr. Gathercole: Yes, I did.Mr. Shibley: And it was the combination of that information plus the information that he had ~~that~~ that one of the newspapers, and his recollection is that it was the Toronto Star, was considering doing an article on the circumstances of the Hydro head office building which caused him to request that a narrative statement be provided to him. You heard that?Mr. Gathercole: Yes.Mr. Shibley: So that I take it that as early as the 4th -- well, let's put it this way, as early as the first week of November there was already rumour that the press were considering an investigation into the circumstances of the letting of the ~~head~~ head office building?Mr. McCallum: Well, Mr. Chairman, before the witness answers, is this ~~a~~ question designed to elicit whether this witness knew about the rumour or did somebody else know about the rumour?Mr. Shibley: Mr. McCallum, if you would just wait for ~~my~~ my next question --Mr. McCallum: I try and be patient, but you do get me up --

Mr. Shibley: Oh, I realize that ~~the~~  
I start to wind up the clock and the alarm has to go off, but I  
have to lay the foundation for the question I am putting, Mr.  
McCallum.

Mr. McCallum: I am sure, but it seemed to me that in  
this particular question ~~it~~ it would be of interest to know whether  
you were trying to get this witness's knowledge or someone else's.

Mr. Shibley: ~~He~~ I will ask ~~him~~ him point blank  
then. Had you also heard the rumour in the first week of November,  
1972, that the press was about to do an investigative report?

Mr. Gathercole: No, I hadn't, no.

Mr. Shibley: You hadn't heard that?

Mr. Gathercole: No, but I would say this that this  
article here and ~~in~~ our general knowledge that it had been a

~~top issue in the country. It was well covered in the press and  
it was known that he was a~~

(H-1069 to follow)

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3.25 - 3.30 pm

H 1069 - 1

AA

Mr. Gathercole

in the provincial Legislature debates were sufficient to gear us up to knowing that we would be obliged to provide some answers.

Mr. Shibley: Yes, and in addition, you already knew that one contractor had lodged a complaint through Mr. Seguin?

Mr. Gathercole: Yes, I hadn't . . . Yes.

Mr. Bullbrook: When did you find that out?

Mr. Shibley: Well, I believe the evidence ~~was~~ →

Mr. Bullbrook: At a subsequent meeting?

Mr. Shibley: To this point, it is on →

Mr. Gathercole: On September →

Mr. Shibley: One.

Mr. Gathercole: September 1st, and I think the second time it came up in the commission meeting was later on in September.

Mr. Shibley: Now, I take it also that when Mr. Nastich ~~had~~ raised these matters at the meeting of November 8, as evidenced by exhibits 105 and 106, ~~these~~ these are memoranda of commission meetings, and my understanding, Mr. Gathercole, is that there is only a memorandum when the matter was not on ~~the~~ the agenda for that particular day's meeting <sup>is</sup> ~~that~~ that correct?

Mr. Gathercole: I don't know whether it is universally correct or not, but I would presume that would be the ~~procedure~~ <sup>usual custom</sup>.

Mr. Shibley: If it had ~~been~~ intended to be dealt with at the meeting of November 8 →

Mr. Gathercole: Yes.

Mr. Shibley: → the information would have been contained in a document-styled ~~notice of commission~~ Commission Decision" ~~Is that correct?~~ Is that correct?

Mr. Gathercole: Yes.

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AA

(Mr. Shibley)

Mr. Shibley: So that spontaneously and without it being on an agenda, Mr. Nastich raised the matters indicated in those two exhibits. Is that correct?

Mr. Gathercole: Yes.

Mr. Shibley: Did he indicate ~~that~~ the reason why he raised these as non-agenda items at the meeting of November 8th?

Mr. Gathercole: I would think that it would occur, Mr. Shibley, as a result of the editorial in the Globe and Mail and from the previous editorial in the Sun and so on. And he made these remarks, "Well, we had better prepare ~~ourselves~~ ourselves in the event that questions do arise."

Mr. Shibley: Yes. Now then we get down to November 9, on which day you had a meeting at the Premier's office. Is that correct?

Mr. Gathercole: Yes. Yes, I did.

Mr. Shibley: I am wondering whether - all right. You had a meeting at the Premier's office?

Mr. ~~Shibley~~ Gathercole: Yes.

Mr. Shibley: And, of ~~course~~ course, this was the very day following the commission meeting at which Mr. Nastich has raised these problems with the commission; these matters in those memoranda. Is that right?

Mr. Gathercole: Yes.

Mr. Shibley: Had you received an earlier communication from the Premier's office requesting the meeting of November 9th?

Mr. Gathercole: The ~~met~~ meeting was arranged through the Premier's office and my secretary.

Mr. Shibley: When?

Mr. Gathercole: I believe, as nearly as they can

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H 1069 - 3

AA

(Mr. Gathercole)

determine, Miss Smith, who is my secretary, says she believes it was on the 7th of the month.

Mr. Shibley: I see. Now then, in that connection, Mr. Gathercole, was any message left that a letter, a narrative, or whatever, referable to the mode of letting of the Hydro contract was required by the Premier's office?

Mr. Gathercole: Not to my ~~knowledge~~ knowledge. I know Mr. Fleck has made the point that he telephoned me or advised me, either when I was coming or going, that he would like to have material dealing with the head office administration agreement. ~~But~~ To the best of my knowledge, and I am not saying that Mr. Fleck is wrong, but to the best of my knowledge, I didn't know at the time that I prepared the letter <sup>and</sup> ~~it~~ I did not know when I gave evidence back on May 22nd or May 23rd, that he had requested that information. ~~And~~ It may well be, Mr. Shibley - this is one of the alternatives that you didn't mention - that he himself had thought that ~~he had told me or~~

107 1011048



1070-1

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C.B.

(Mr. Gathercole)

~~that he himself intended~~ that he had told me and ~~hadn't~~ hadn't. Or that he had jotted it down as a reminder to himself to call me to ask for that information. But it is conceivable that this got washed out by the pressure of other activity.

Now as far as I'm concerned I <sup>HAD</sup> ~~some~~ no purpose in withholding that information and I was puzzled by the emphasis that was put on it. Because when I gave my evidence I did it on the basis of ~~what~~ what I knew at that time. Which was we knew this problem was going to be one on which questions would be raised and therefore we should prepare material on it and we were preparing material on it. So I'm not denying what the MR. Fleck intended to call me, I'm not even going to deny that he may have called me, but certainly at the time I gave my evidence I had no recollection whatsoever that he had requested that material.

Mr. Shibley: Mr. GATHERCOLE, I would just like to discuss with you the circumstances which were affecting your thinking as at November 9, 1972, when it appears that Mr. Fleck made the request. I say ~~when~~ when it appears that he did, I should tell you that initially he stated that he thought he called you on the eighth or the ninth, he wasn't sure which, because his Day-Timer might not necessarily be correct. He Day-Timer <sup>includes</sup> the entry on the seventh of November, Cronyn's initials, Hydro building, E-D for Ellis-Don. His Day-Timer on November 9, indicates, "letter



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3:40:33 pm

C. H.

(Mr. Shibley)

Gathercole"; and in his evidence he said that meant to him that he wanted to ask for a letter, "narrative or what have you," is the way he <sup>e</sup> described it, and I can read you his evidence if you <sup>FAIL TO</sup> ~~could~~ recollect it.

Now taking his evidence, and he must have said it at least ~~at~~ four or five times, that whether by a call to you or by reason of having asked you for it when you were arriving or as you left the meeting with the Premier, that he asked you for the narrative. As at that time you were already alert to the circumstance that one developer had kicked up his heels with Mr. SEguin. There was already a memorandum in October that should it become an issue in the press you should be ready for answers. On the -- in early November, on the second of November, the Fidnam thing hit the press and on November 6 there was an article ~~in~~ the Globe, and according to Mr. Fleck there was already rumour that the press were considering an inquiry into the Hydro building.

On the eighth of November you were being cautioned by Mr. Nastich in accordance with the memoranda of the commission meeting of that day, that reasons must be compiled for your decision. Then on the ninth in the atmosphere of the Premier's office you were asked by the chief executive officer to compile a narrative and send it along.

Mr. Gathercole: That's what you say, Mr. Shibley, but I didn't say it. I mean the latter I'm referring to.

Mr. Shibley: So the only point I'm making with you Mr. Gathercole is that I take it that

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C.B.

(Mr. Shibley)

notwithstanding all of those circumstances you have no recollection of Mr. Fleck having asked for the narrative.

Mr. Gathercole: That is definitely my recollection.

Mr. McCallum: Mr. Chairman before the witness goes any further. A recital of all the events that my friend put to the witness were connected with and had clearly in evidence been established as having connection with this case and hence his answer, <sup>with</sup> ~~with~~ one exception. My ~~friend~~ <sup>friend</sup> used the word "the Fidinam think hit the press". Now it is my submission to you, Mr. Chairman, and members of the committee that that is a non sequitur, that does not have a place in the evidence before this commission and that my friend ought really, I don't <sup>say</sup> ~~it~~ influenced the witnesses decision, it ~~ought~~ <sup>ought</sup> to be ~~accepted~~ <sup>accepted</sup> however that that is not related to these proceedings and ought not.

H1071 to follow

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B.A.

H-1071-1

(Mr. McCallum)

~~this commission and that it is not a matter of fact, but it is a matter of opinion~~  
~~it influenced the witness' decision. It could be argued, however, that that is not a matter of fact, but it is a matter of opinion~~  
to be a consideration for this witness in giving that answer.

Mr. Shibley: Mr. Chairman, I was trying to alert the witness so that he could give his evidence against the background of what I might call the general environment of the times.

Mr. McCallum: Well, the general got too specific, as far as I was concerned. It just didn't seem to me to be needed.

Mr. Bullbrook: Mr. McCallum, there is evidence that the ~~Bullbrook~~ Fidinam matter did at least influence one witness. It influenced Mr. Smith, he gave evidence of that.

Mr. McCallum: Yes, well, it might have. It certainly didn't play a part so far as we were aware from here.

Mr. Bullbrook: Mr. McCallum, it is not a question of it might have. It did, he gave evidence of that.

Mr. McCallum: I'm sorry, I didn't hear any such evidence. I will accept it if you say he did.

Mr. Bullbrook: That is why he got in ~~the~~ with Mr. Manthorpe at the Globe and Mail.

Mr. McCallum: Oh yes, but it hasn't got --- well, I won't go any further.

Mr. Shibley: Now, quite apart ~~from~~ from the circumstances...

Mr. Gathercole: Excuse me, Mr. Chairman. Mr. Shibley, could I make just one observation? You built ~~that~~ sequence of events into quite a mountainous total of importance...

Mr. Shibley: Yes.

Mr. Gathercole: But I have no recollection of being seized with the importance of those events in the same manner as you have, or at least, as arises from the manner in which you articulate them. I mean, we recognized, even back

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8-1071-2

(Mr. Gathecole)

~~in September; the Sun had an article on this matter, and on~~  
November 6 the ~~the~~ <sup>the</sup> article in the Globe and Mail.

Mr. Shibley: Mr. Gathercole, I could stand corrected in this, but the impression I have as to November, 1972, was that it was a month of a great deal of activity surrounding the preparation of material to answer questions that might be raised about the giving of this contract to Canada Square. Isn't that so?

Mr. Gathercole: Yes, we were researching <sup>ing</sup> it, but...

Mr. Shibley: Yes, and in fact, it culminated in such things as a meeting between Mr. Candy and Mr. Auld on November 20 to discuss the reasons?

Mr. Gathercole: That is because the House was opening on the 21st.

Mr. Shibley: Yes, and I believe the Premier himself made a statement in the House, or gave an answer in the House on ~~the~~ November 21, is that correct?

Mr. Gathecole: Yes.

Mr. Shibley: And, of course, earlier that month Mr. Fleck obviously was starting to exercise some interest and....

Mr. Gathercole: He certainly would be.

Mr. Shibley: Yes. So that within the month of November, starting from early November, it was a matter of intense interest on the part of people within government and on the part of ~~the~~ people within Hydro, was it not?

Mr. Gathercole: It was a matter to which we had to give attention, that is very true. But it is a matter of degree, Mr. Shibley; I mean, to build it up as ~~some~~ being some mountainous issue is quite different from treating it as one of those ~~of~~ things with which we have to reckon.

Mr. Bullbrook: Mr. Shibley, I don't want to interrupt you, but let me interrupt you please because this ~~gets~~ gets... Will you, Mr. Chairman? ~~This gets back to the very thing that~~ ~~the~~

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B.S.

H-1071-3

(Mr. Bullbrook)

concerns me ~~nothing~~ <sup>is</sup> more than anything else, and that ~~is~~ that it is a matter of interest in November where we have to discuss, because of press reports, because of the impending opening of the House, we have to discuss the lease-purchase arrangement, the location for it, the economic justification for it, and the choice of the developer. But, Mr. Shibley, we discussed that on June 6 of 1972. That was when exhibit No. 70 was prepared. This is where I am still lost, and I want you to help me as our counsel because ~~nothing~~ <sup>since I examined</sup> the witness, we have intervening something that would ~~have~~ cause the preparation of a rationale, and that is Mr. Seguin's intervention. But we have nothing prior to that time ~~except in House discussion~~ that causes the preparation of the ~~memorandum~~ memorandum of June 6, that deals in detail with how we are going to ~~justify the~~ <sup>justify the</sup> ~~choice of that~~

(Tape H-1072 follows)





H-1072-1

the choice of that developer, ~~and~~ I say to you, Mr. Chairman, it is unequivocal that that developer is Canada Square. ~~And~~ I am sorry, but that is where my acceptance of the evidence is strained at best.

Mr. Bullbrook: Okay. All right.

"Mr. Gathercole: Well, a copy would go to Mr. Fleck as being  
ative assistant, the director to the Premier, so he would  
upprised of what the information was."

~~And~~ It was left at that. Now, in the circumstances ~~that~~ we have been talking about as having prevailed in early November, and with the circumstance of Mr. Fleck saying to you in that environment, "I want you to prepare a narrative and send it to me", and even though you might have compiled the content of that narrative from workup material already underway, why did you answer Mr. Bullbrook in those terms rather than tell this committee, "I sent it to Mr. Fleck because he asked for a narrative"?

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H-1072-2

Mr. McCallum: Now, Mr. Chairman, just before the witness answers that, let's just consider this. On July 5, 1973, in Hansard at page 980-2, Mr. Shibley put this to Mr. Fleck:

"Mr. Shibley: If you don't have a recollection of whether you made it by phone or whether you made it by personal request at that time, I take it you really can't help us at all as to the surrounding circumstances of your making the request?"

"Mr. Fleck: That is correct....."

This afternoon, Mr. Shibley asks this witness if he has any recollection of the same question being put to him by Mr. Fleck and he says, <sup>no, he has</sup> ~~that he has~~ <sup>no recollection of Mr. Fleck</sup> ~~that he has~~ having put that to him. Here we have, now, a suggestion that something which is not recollected by Mr. Fleck as having been made by phone; he can't recollect whether it was made in person; the person who is supposed to have received it can't recollect it having been had at all or ~~being~~ heard at all. Is it not likely that the conversation either didn't take place or, in any event, that the particulars of it are not going to be possible of ascertainment ~~as~~ now when both witnesses can't even recollect it having been made?

~~Mr. Shibley: What was the call from~~  
~~there again in Hansard, what page?~~

~~Mr. Shibley: The call from Hansard~~

~~2-1072-1 follows~~



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DT~~(As Vice-Member)~~

Mr. Chairman: Mr. McCallum, what were you reading from there again in Hansard, what page?

Mr. McCallum: I was reading from Hansard, page 980-2.

Mr. Chairman: 980-2?

Mr. McCallum: Yes.

Mr. Shibley: Mr. McCallum, I want to understand you clearly now. Are you suggesting, because if you are I intend to go right down the line and reference the evidence to the hilt, are you suggesting that it is open to this committee on the record of evidence to conclude that Mr. Fleck never asked for a narrative of Mr. Gathercole?

Mr. McCallum: No, I am not suggesting any more than I read from the records. Now the record says --

Mr. Shibley: No, Mr. McCallum, I want to understand that. I really want to understand it.

Mr. McCallum: Look, Mr. Shibley, I am <sup>simply</sup> ~~not~~ not being ~~examined~~ cross-examined by you yet. Secondly, I am trying to assist you and I will assist you, sir, and if you want to understand it, just listen to me out then. I said in reading from the record that there had been no recollection by Mr. Fleck either of his having asked him face to face nor of his having asked him over the telephone. That's number one. That's no recollection, he said, ~~of~~ either of those methods about this question.

Mr. Chairman: Isn't that a recollection of how the request was made?

Mr. McCallum: That's right.

Mr. Chairman: <sup>Not in the</sup> ~~Whether~~ or not it was ~~made~~ made?

Mr. McCallum: That's right and he goes further and he says:

"Mr. Shibley: I take it you really can't help us at all as to the ~~s~~urrounding circumstances of your making the request?"

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DT

(Mr. McCallum)

And the witness says: "That is correct." Now, I am coupling that difficulty in the witness who is supposed to have made the question. Here is a man who says, "I guess the best you can say for him is I think I may have said it, I guess I said it but I can't remember where." Listen to me now: <sup>He says</sup> "I don't recollect whether I made it to his face, whether I made it over the telephone," and Mr. Gathercole says: "And I don't recollect it was made to me at all." Now, then, if you will take those circumstances, which is all I have asked you to do, and look back on your record as to the question you are asking Mr. Gathercole, you may well come to the conclusion that it will be difficult, if not impossible, for him to answer the question, because there is just such a lack of recollection of the question ~~itself~~ and the communication, such as it was. That's my point. There just is a very strong lack of recollection, so that in the ~~light~~ light of that it is difficult to ask this man, who has no recollection at all of the matter having been made to him, what took place.

Mr. Chairman: Well, I know you are trying to put the indefinite recollection of Mr. Fleck as to how he made the request and say that might possibly carry over to the ~~same~~ position the request was not made at all --

Mr. McCallum: I am just saying that there is on both sides a very strong lack of recollection of the incident. There is a complete lack of recollection by Mr. Gathercole of the statement having been made to him at all, sir, and that's to be coupled with a rather unusual lack of recollection of another man who says: "I guess the statement was made to me but I can't recall the ~~circumstances~~ circumstances, whether it was by telephone or to his face, nor when."

Mr. Chairman: But I think Mr. Fleck was pretty definite that the request was made.

Mr. McCallum: I am not arguing that point. That's what Mr. Shibley invited me to argue and I am not arguing that point, am I?

Mr. Shibley: That's what I want to know, Mr. McCallum,

because ~~that~~ you are putting ~~it~~ <sup>me</sup> forward on behalf of Hydro that  
a request for the narrative was ever made by Mr. ~~Mr.~~ Fleck, I  
would like to know that.

Mr. Shibley: I'm still, Mr. Chairman, ~~because~~ I am most anxious that we not be confronted later on or even at this time with any debate about the evidence of Mr. Fleck as to the fact that he requested a narrative.

Mr. Gathercole: Mr. Shibley, maybe it might be that to ask for that memorandum but in fact did not do so.

Mr. Shibley: Mr. Gathercole, you are putting ~~an issue~~  
~~it~~ <sup>it</sup> issue and it requires to be done ~~and~~ <sup>then</sup> I am going to go back ~~to~~  
 through Mr. Fleck's evidence ~~and~~ ~~the~~

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AA

(Mr. Shibley)

wherein he repeatedly refers to the fact that the combination of two circumstances led him to request a narrative and the only thing about which he was at all in <sup>doubt</sup> ~~doubt~~ is he <sup>said</sup> ~~said~~ "I believe." Mr. Gathercole said he can't remember a call - "maybe I didn't call him to request it. I ~~didn't~~ might have asked him for it when he came to the meeting on the 9th" and it is only the circumstance when he asked you for the narrative that he left in doubt, not the fact of having asked for a narrative.

Mr. Chairman: Mr. Shibley, Mr. Fleck's evidence is on the record. It's fairly definite in my mind, and I say "fairly" because I don't want to appear that I have reached a definite conclusion on it or try to influence anybody else, but that Mr. Fleck made that request. Now, having noted Mr. McCallum's objections, I think that you can carry on with that original question that you asked Mr. Gathercole.

Mr. Gathercole: Could I - Mr. Chairman, I want to qualify - could I ask a couple of questions for my own enlightenment on this?

Mr. Shibley: You have answered so many Mr. Gathercole.

Mr. Walker: Watch you don't cross examine.

Mr. Gathercole: What purpose would I have had in failing to disclose Mr. Fleck had asked me for that document, that memorandum, if I had a recollection that he had asked me for it? And how could I have the prescience to see, weeks ahead, that Mr. Cronyn would suggest <sup>that</sup> ~~at~~ a meeting he had with Mr. Fleck, at the end of November or early in December, was a different date from that of Mr. Fleck, who placed it in the first part of November, when I knew nothing about the meeting? It was either an honest mistake on my part or else if Mr. Fleck had thought he had advised me - maybe he said it when I was going out the door and I didn't

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AA

(Mr. Gathercole)

realize it. There are any number of possibilities that arise from this. But to brand me as concealing evidence or being forgetful, which I may be in this matter as I may be in others, I think is going too far.

Mr. Shibley: Mr. Gathercole, I don't want to brand you with anything. I am only . . .

Mr. Gathercole: You have.

Mr. Shibley: . . . searching out the ~~alternatives~~ alternatives, the possibilities and please, again - you see, terminology is employed by you and your counsel today and otherwise which places conclusions on the questions that I ask. If I were to answer the questions you put to me, they would probably make tomorrow's headlines. The point of the matter is that I can't answer those questions without - apparently, I cannot answer what was in my mind in asking the questions or what may have been possibilities with you ~~without~~ without inciting people. Now, the point I am driving ~~at~~ is I would like to know on the basis of the evidence when it is all in whether or not you had a recollection of the circumstances surrounding your delivery of that document to Mr. Fleck or not. If, on the whole of the evidence, this committee concludes that you simply forgot about it, that is one thing. If this committee concludes that you did not forget about and the answer to Mr. Bullbrook's question, "Why did you deliver a copy to him?" was an incorrect statement of facts otherwise known to you, it may be another situation. But, at the moment, we are only investigating, Mr. Gathercole and I am investigating your answer against the background of what was the prevailing atmosphere at that time. Do you understand?

Mr. Gathercole: I do, Mr. Shibley.

Mr. Shibley: All right. And against the background also, Mr. Gathercole, that when you responded to the request

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AA

(Mr. Shibley)

of Mr. Fleck, you did so by letter to the Premier himself, not by sending the narrative to Mr. Fleck. Is there some explanation for that?

Mr. Gathercole: You refer to the request of Mr. Fleck as being a fact and you have said that several times. But as I say, it may be something different than that. Maybe Mr. Fleck, as I say, ~~was~~ overlooked telling me, although he had made a note of doing it

Mr. Shibley: That's the point.

Mr. Gathercole: . . . and therefore to be constantly calling it a fact

H 1075 - 1 follows



July 9/73

3:55-8 4 pm

C.B.

(Mr. GATHERCOLE)

~~Having Mr. Fleck as your only witness, it is not possible for me to be~~  
~~be so sure of what he has said. It is not possible for me to be so sure of~~  
~~what he has said. It is not possible for me to be so sure of~~  
 what he has said. It is not possible for me to be so sure of  
 help it.

Mr. Shibley: I must tell you Mr. Gathercole,

Mr. Bullbrook: May I....

Mr. Shibley: No, Mr. Bullbrook, please, may I say this much. I am very concerned, because I can tell you that I do not lightly embark upon this type of questioning. The most dire type of examination is the type where a person's accuracy in recollecting events, if you like a person's credibility may be part of what is in issue, and I do not approach this type of questioning with ease. I'd like to say immediately that I have not reached any conclusions in that respect referable to you Mr. GATHERCOLE. I don't want the form of my questions to be taken as having reached any conclusion, but I am intent upon making <sup>sure</sup> ~~sure~~ that the record of the evidence is such that when this hearing is all over this committee will be able to reach a conclusion.

Now please don't take it therefore that I "aligned myself against you", because of ~~Mr~~ what Mr. Fleck has said. I'd like to know why, if this committee concludes that Mr. Fleck did request the narrative of you, why you sent that narrative to the ~~Mr~~ Premier?

Mr. GATHERCOLE: I have no recollection whatsoever of receiving a communication from anyone that this memorandum should go to Mr. Fleck. I'm not denying that he may have said it, because it may have been that he communicated it when I was out of earshot or he may have intended to do so and did not do so. It may be that <sup>I</sup> ~~I~~ had forgotten it, that's



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~~CONFIDENTIAL~~~~CONFIDENTIAL~~ 3:55-4 pm  
C.B

(Mr. Gathercole )

another possibility. But I can assure you this, that if I had ~~remembered~~ recollected or known that Mr. Fleck had wanted that document, then I would have said so in my evidence.

Mr. Shibley: You see, Mr. Gathercole, the document surfaced as an item which helped pinpoint the timing of a discussion between Mr. Fleck and Mr. Cronyn. You realize that.

Mr. Gathercole: I recognize that, but I...

Mr. Shibley: Did you ever discuss with Mr. Fleck or Mr. Cronyn the circumstances surrounding the delivery of the November 15 document before you gave your evidence.

Mr. Gathercole: No, absolutely not.

Mr. Chairman: Gentlemen I've been trying to find the time to take a break here, we've ~~been~~ been ~~going~~ going since 2:08. I've been trying to find a suitable time for the last 15 minutes and I don't even know if this is suitable, but I think maybe we should ~~take~~ take a break for ten minutes.

H 1076 to follow

July 9, 1973  
4.15-4.20p.m.  
B.A.

H-1076-1

The Chairman called the meeting to order at  
4.15 p.m.

Mr. Chairman: Are you ready to proceed, Mr. Shibley

Mr. Shibley: Yes, Mr. Chairman.

Members of the committee, and Mr. Gathercole,

~~just~~ to assist everyone, I would like to go back on Mr. Fleck's  
evidence. ~~and~~ In ~~Standard 24~~ 943-2, July 9, afternoon session,  
~~you~~ will notice about a quarter of ~~the~~ way down the page he  
is referencing his day-timer, that it includes a reference,  
"GG would be George Gathercole", "building" and "letter" was  
what was written into ~~his~~ <sup>R:5</sup> day-timer

"Mr. Fleck: George Gathercole, right, ~~I~~ and  
my recollection ~~is~~ that I did telephone Mr. Gathercole and ask  
if a narrative report, letter, document, ~~xxxxxxxx~~ and I think  
it is ~~fair~~ fair that the reason he used those three expressions  
is that the entry in his day-timer is "letter", so what  
he was explaining was that when he wrote down ~~letter~~ "letter"  
he wasn't necessarily looking for a letter as such; he was looking  
for a narrative report, letter or a document, "setting out  
everything that had happened in relation to this particular transact  
could be set out in narrative form for me. I do receive on -- I  
don't have a date stamp on this, but November 16 is the date of the  
letter and the date on the accompanying document is November 15."

And then, down at the bottom:-

"Mr. Shibley: And what caused you to make such a  
request of Mr. Gathercole?

"Mr. Fleck: A ~~new~~ combination of ~~xxxxxxxx~~ factors,  
one, the conversation with Mr. Cronyn relating to Ellis-Don, and  
the other that I have an awareness at that time that newspaper  
~~reporters~~ reporters are interested in this ~~matter~~ matter and are carrying  
out an investigation or looking into the matter."

Then, on the next page, 943-2, half way down:-

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4:15-4:20 p.m.  
B.A.

(Mr. Shibley)

"Mr. Shibley: Well, I am presuming it was, because you have stated now, I take it, that it was a combination of the information about Ellis-Don provided to you by Mr. Cronyn, plus the rumour that the press were interested in the matter, that caused you to request ~~the~~ <sup>the</sup> of Mr. Gathercole, on November 9th, the narrative that ultimately took the form of exhibit 112?

Mr. Fleck: Correct.

"Mr. Shibley: And so we ~~can~~ <sup>can</sup> take it that both those circumstances existed as at November 9th?

"Mr. Fleck: That is correct."

Mr. McCallum: What was that page, sir?

Mr. Shibley: 943 page 2.

Now then, again, skipping along, on page 945-3:

"Mr. Shibley: Let's start back. Why did you consider that the rumour of an investigation by the press, combined with the information provided to you by Mr. Cronyn about <sup>the</sup> Ellis-Don complaints, were such that should prompt you to requisition a narrative in the form of Exhibit 112?

"Mr. Fleck: Because we just wanted to be better ~~informed~~ <sup>informed</sup> if it was something that might - you know, part of the job, I guess, is anticipating the problems as well as reacting to them. And it was the feeling that perhaps I should become better informed on this particular transaction."

I ask you to note those words.

"It was the feeling that perhaps I should become ~~better~~ better informed on this particular transaction."

Then the next page, 946-2, a quarter of the way down:

"Mr. Fleck: The other thing is that the note on the 9th could be the time that I called Mr. Gathercole. It could be that I called him on the 8th, and maybe on the 9th, I heard back that ~~they~~ they will have something for me next week, or something of this sort." Incidentally, was there any such communication from you to Mr. Fleck that, after his request, he could expect something the next week?

11077-11

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4:20-4:25 pm

C.U.

(Mr. Shibley).

You know nothing of that.

Then again on the top of 947, page one. I'm still asking impressions about this.

"You might have made the call to Mr. Gathercole on the 8th and recorded it on the 9th.

Mr. Fleck: Yes, or I might have made it on the 9th because again it would often depend on how busy I was whether with other things and ~~whether~~ I would get <sup>THAT</sup> to ~~soon~~ or get to that later.

Mr. Shibley: So you are uncertain really as to the date of that call. It would be sometime between the 7th and the 9th. Is that correct?

Mr. Fleck: Correct."

Then on page 947 - 2, about a quarter of the way down.

Mr. Shibley: Did you, or anyone in the Premier's office, have any communication with Hydro that might have brought about recommendations of Mr. Nastich to the commission on a meeting of that date?

Mr. Fleck: Only if, and I wasn't aware of this, only if my call to Mr. Gathercole might have been on the 8th and conceivably something he said to Mr. Nastich, but other than that I can't think of anything. There's nothing that I know of.

Mr. Shibley: All right.

Mr. Fleck: Because I'm not positive whether it's the 8th or the 9th, and of course, I didn't realize that it has any significance. At the time I wasn't positive, and I remain not positive."

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4:20-4:25 pm

(Mr. Shibley)

Now then on page 948, page 1. near the bottom.

Mr. Shibley: Mr. Fleck, did you discuss the circumstance respecting the preparation of the November 15 narrative with Mr. Gathercole when you requested it of him?

Mr. Fleck: I do not have a recollection of the actual telephone call. but I would believe that I would just have said what I indicated before, sort of a narrative statement of what has happened to provide me with some information, but I did not in any way mention what MR. Cronyn had mentioned<sup>e</sup>. I did not mention that I thought there was maybe a newspaper story. I just asked for the narrative.

Mr. Shibley: You asked him for the narrative. You initiated the call to him?

Mr. Fleck: Yes.

Mr. Shibley: And beyond asking for the narrative did you tell him the kind of information that you were seeking?

Mr. Fleck: I really cannot recall, but I do not believe so. I just said that I would like a narrative statement of what had taken place, relative to the contract with Canada Square on this building. \*

~~Then he says~~ Then he says "he" wouldn't necessarily give the reasons. In skipping along further....I asked him on page 950 page 2, three-quarters down the page.

Mr. McCallum: Sir, just before you came to that point, my eye caught 949-3.

Mr. Shibley: Yes.

Mr. McCallum: In answer to you and then his answer, apparently MR. Bullbrook had been speaking to you. See the question by Mr. Shibley and the answer by Mr. Fleck

Mr. Shibley: Yes I the answer -

Mr. Shibley: I was asking you about what you had said to Mr. Gathercole on the occasion of your request

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4:20-4:25 pm

C.B.

(Mr. Shibley)

to him of November 8th or 9th ~~see~~ for the narrative. What did he say to you on that occasion?

Mr. Fleck: I don't remember but if there were anything of substance I would think I would remember. I would think he would most ~~like~~ likely say "Fine or We will do that or he may have said 'I will call you back and let you know how soon we can have it.' I mean nothing that's out of what I would expect he would reply in a situation such as that, which is that he would be trying to cooperate and would be attempting to get me the information that I wanted."

Now then, he goes on and I ~~would~~ won't bother you with all the references. On page 955 - 2 about middle of the page.

Mr. Fleck: I would say that I don't know what went on within Hydro, but I wouldn't necessarily have drawn the conclusion that the document was prepared directly as the result of my request. I would think that most likely I would get a copy because of my request and it might be that that document would come to me because of my request, but it may be that they were preparing the document in any event for some other reason and that is so.

Now that I think is the distinction the Chairman wanted to bring to ~~your~~ your attention, Mr. Gathercole and Mr. McCallum, <sup>that</sup> the only thing ~~the~~ Mr. Fleck left in doubt, and ~~it could be that the document was prepared for some other reason and that is so.~~

1077 to follow



H-1078-1

(Mr. Shibley)

~~Mr. Fleck~~ and I could go on ad nauseam with further references of when he reattended. The only question he left in doubt were the circumstances surrounding the request, and maybe the content was underway in any event. But the question Mr. Bullbrook had put to you, Mr. Gathercole, was ~~why would a copy go to Mr. Fleck?~~ why would a copy go to Mr. Fleck? And your answer, I gather, is, you did not remember when you first gave your evidence that Mr. Fleck had ~~asked~~ asked for <sup>a</sup> narrative.

Mr. Gathercole: And I don't recollect it to this day. I am not denying that he may ~~have~~ in some form have communicated that message or he may simply <sup>have</sup> intended to but failed to do so. But I have no recollection and my action is based upon that recollection.

Mr. Shibley: And you say you had no recollection, notwithstanding all of the activities that I have outlined to you that were going on in the early part of November in terms of the press release of November 6, or the article of November 6, and the earlier communications referable to the Ellis-Don complaints to Seguin, the fact that later in November, on the 20th, a meeting was held, which had already been arranged between Mr. Auld and Mr. Candy. All these things were happening in November, ~~and~~ notwithstanding that November seems to have been the month of a great deal of activity, you had no recollection that on the occasion of an attendance in the Premier's office, or by a telephone call, you were requested to supply a narrative of the circumstances surrounding the letting of this contract?

Mr. Gathercole: That is absolutely correct. I have no recollection. I am not saying it didn't happen because I am not infallible. But I have no recollection of it. And my action seems to suggest that I had no recollection at that time.

Mr. Shibley: All right. Do you have a present recollection?

Mr. Gathercole: No.

Mr. Shibley: Have you any information to provide to this committee as to why you sent the original document to the Premier when it was Mr. Fleck who was requesting it of you?



H-1078-2

Mr. Gathercole: I would say the explanation is as I gave it in my previous testimony on this; that I wished to ensure that the Premier as well as Mr. Fleck would be apprised of the circumstances surrounding this agreement.

Mr. Shibley: Mr. Gathercole, you had a second meeting in November of 1972 with the Premier, on November 14, did you not?

Mr. Gathercole: Yes. I did.

Mr. Shibley: And what were the circumstances of that meeting?

Mr. Gathercole: I think this was a meeting of about 15 minutes ~~probably~~ <sup>probably</sup> I think it probably took longer than that. But Mr. Davis brought me up and ~~was~~ informed me that the province would like to proceed and would be shortly announcing its rapid urban transit system and the use of Hydro rights of way in part for this. This had been a subject that he had mentioned to me <sup>way</sup> back some months ago, but in view of the developments that had occurred, which were then pending, he ~~was~~ wished to advise me rather than having me read it in the press. This is my recollection, and ~~was~~ This policy was announced on November 22, which was some six days later. Subsequent to my ~~meeting~~ <sup>meeting</sup> with the Premier, which was quite a brief one, I ~~was~~ attended a meeting in the Hon. Gordon ~~Carton's office~~ <sup>with</sup> ~~the Hon. the Deputy Minister~~ in this regard. There may have been other subjects that we discussed at that time, but that was the principal one, as I recall it.

Mr. Shibley: Mr. Gathercole, I am producing to you a document dated November 13, 1972, which appears to be a draft of the summary statement, it is called, prepared by Mr. Candy and which ultimately took the form of the November 15, document. Do you recognize that document? <sup>to the Hon.</sup>

H-1079-1 follows

July 9th, 1973

4.35 - 4.40 pm

N 1079 - 1

1A

~~Mr. Shibley~~

~~Mr. Gathercole: I think it is a preliminary draft. I haven't examined it or made a comparison with the one - there was one November 13th.~~

Mr. Gathercole: I think it is a preliminary

draft. ~~I~~ I haven't examined it or made a ~~comparison~~ with the one - there was one November 13th.

Mr. Shibley: Yes.

Mr. Gathercole: ~~And~~ I don't know whether I had a copy of this one or not, but I recognize now it was a preliminary draft to the one that was subsequently sent, attached to my letter to Mr. Davis and to Mr. Fleck.

Mr. Shibley: Now, then, Mr. Gathercole, did you receive a copy of this draft on November 13th?

Mr. Gathercole: I don't ~~know~~ know.

Mr. Shibley: You don't know. Were you asked to make comments with respect to the draft before it was put in final form?

Mr. Gathercole: No.

Mr. Shibley: Did you have the draft in your possession at the time of your meeting of November 14? I am talking about your meeting with the Premier.

Mr. Gathercole: I am not in a position to be precise on that, whether it came into my office. I know I certainly didn't take it to the Premier's office.

Mr. Shibley: That's what I want to know.

Mr. Gathercole: Absolutely certain.

Mr. Shibley: All right. You may have had it in your office, but you did not take it with you to the meeting?

Mr. Gathercole: That I don't know. That I don't know.

Mr. ~~Shibley~~ Shibley: Wait a minute. Let's be clear on the record. You may have had the draft of November 13th in your office. Did you,

Mr. McCallum: We don't think he did have. That is

July 9th, 1973

4.35 - 4.40 pm

H 1079 - 2

AA

(Mr. McCallum)

why I was trying to interrupt~~ed~~ earlier. I am told by my right ~~hand~~ <sup>hand</sup> and computer service that he did not have <sup>it</sup> in his possession at all, sir.

Mr. Shibley: All right. And do I take it that he did not have it in his possession as at November 14?

Mr. McCallum: That's right, sir.

Mr. Shibley: ~~and~~ <sup>I</sup> in any event, Mr. Gathercole, you did not take it with you when you met with the ~~Mr~~ Premier on the 14th?

Mr. Gathercole: That's absolutely correct.

- Mr. Shibley: Did you discuss the subject of the memorandum with the Premier on that occasion?

Mr. Gathercole: I never have. No.

- Mr. Shibley: ~~Did~~ Did you discuss the subject of the memorandum with Mr. ~~Fleck~~ Fleck on the occasion of your meeting the Premier on the 14th?

Mr. Gathercole: No, I never have. No. I did not on that occasion and I haven't, no.

Mr. Shibley: ~~I~~ I see. You ~~never~~ never reviewed the draft material with MR. Fleck before it was put in final form and sent to the Premier on the ~~15~~ 16th?

Mr. Gathercole: I have never reviewed any document with Mr. Fleck or with Mr. Davis at any time.

Mr. Chairman: Mr. Shibley, that should be marked as an exhibit. It is 179.

Mr. Shibley: Now, Mr. Gathercole, as at November 14, the situation then was, in addition to all the other circumstances, a situation ~~wherein~~ wherein the draft ~~had~~ had been prepared. Did you know that it was prepared by this time?

Mr. Gathercole: As far as I am aware, I had seen these, you know, ~~on~~ April 10th and some of the documents all through the piece, from there ~~all~~ <sup>on</sup> the way through. I had seen those, but I don't believe I saw the submission to the

July 9th, 1973

4.35 - 4.40 pm

H 1079 - 3

AA

(Mr. Gathercole)

commission until it was introduced at the commission meeting.  
Now, that is just my recollection at the moment.

Mr. Shibley: This was drafted by Mr. Candy  
on the 13th.

Mr. Gathercole: Yes.

Mr. Shibley: And was put in final form on the  
15th, ~~and~~ <sup>by</sup> sent on ~~to~~ you to the Premier under cover of  
a letter dated the 16th.

Mr. Gathercole: That is correct.

Mr. Shibley: I am only concerned to know whether  
on the 14th, the day you had the further meeting with the  
Premier, within November, what you knew about the state  
of that memorandum?

Mr. Gathercole: Well, before sending it off,  
I presume, in a general way, I read it over and sent it  
along without any ~~and~~ amendment to it. Am I answering  
your question?

Mr. Shibley: No, Mr. Gathercole, you are not,  
because the next question, really, is if this memorandum was  
already in being in draft form on the 13th, did you know  
that fact on the 14th? ~~and~~ If so, was it any part of the  
discussion you had on that day with either Mr. Fleck or the  
Premier?

~~1080 - 1 follows~~  
1080 - 1 follows

July 9/73  
4.40 to 4.45 pm  
DT

(Mr. Shibley)

~~And if so, was it any part of the discussion you had on that day with either Mr. Fleck or with the Premier?~~

Mr. Gathercole: I thought I had answered that, Mr. Shibley. I can't swear at this moment whether it was in my hand on the 14th. ~~And~~ I take it it wasn't because I would have got it off to him since the letter was dated on the 16th.

Mr. Shibley: On the ~~14th~~ 16th, yes.

Mr. Gathercole: On the 16th, so I can't, you know, say that I didn't have it. I had paid no attention to it, but what I do solemnly say is that I didn't have any discussion with the Premier or with Mr. Fleck about this subject ~~on November~~ at the meeting on November 14th.

Mr. Shibley: Was anything said to you by either the Premier or Mr. Fleck on the 14th that might have caused you to send the original memorandum to the Premier when you ultimately remitted it on the 16th?

Mr. Gathercole: Absolutely not.

Mr. Shibley: So that's not an explanation for us. I just wondered ~~if~~ whether that was an occasion when you might have--

Mr. Gathercole: No, no. We had so many things that were looming at that ~~time~~ I mean, I know you and the committee ~~was~~ concentrating upon this building but we had ~~some~~ many other things that were looming much larger in importance, in my mind, than this building. I mean, we were trying to get through a transmission line upon which the power system depends. We had been before hearings of the Solandt commission which occupied literally hours of time. We had so many other things ~~on~~ on the platter. This didn't loom as large in ~~my~~ my mind, as it has ~~become~~ come to assume with ~~you~~ you, Mr. Shibley, and maybe the members of the committee.

Mr. Chairman: have a statement to make? Mr. McCallum, you ~~are expected to make a statement?~~

Mr. McCallum: Thank you, Mr. Chairman, I just wanted to advise you and the members of your committee, Mr. Chairman, that the document that I am looking at, which I assume is the same, I can only see the first page of the one Mr. Gathercole has and which



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4.40 to 4.45 pm  
DT

(Mr. McCallum)

has been marked exhibit 179. Is a draft of a summary statement that was prepared by Mr. Peter Lamb in Hyatt as an aide to Mr. Ken Candy who was then going to prepare a statement. Now, if that's the same one, Mr. Shibley, that you have given to the witness, that is the explanation for this document and it certainly, I am assured, never went to the chairman at all. Well, maybe I could start by saying which statement is it that you gave to the chairman?

Mr. Shibley: Well, I am looking at a document dated November 13, 1972, styled: "Draft, The New Head Office Administration Building, Summary Statement," "The Need for a New Building" is the first topic; "Location of the Building", etc. And it is dated November 13.

Mr. McCallum: Yes, sir, that is the one I am looking at.

Mr. Shibley: I think, Mr. McCallum, to help the committee, it might be useful if you would distribute what you have provided to me in terms of what Hydro say was the chronology of events during the month of November.

Mr. McCallum: Certainly, I would be glad to do that. Do you want it done now, sir?

Mr. Shibley: Yes, please.

Mr. McCallum: Okay, we will get the clerk to do that for us then.

Mr. Shibley: Mr. ~~McCallum~~ McCallum, have you not got the whole of the brief compiled with back-up documents as you provided me?

Mr. McCallum: I don't know --

Mr. Shibley: Because I think if so, then the committee should have that as well. Perhaps ~~someone~~ <sup>it</sup> would just take a minute for all members of the committee to read through the chronology.

Mr. Chairman: I gather there are other pages coming to the three I have originally received, but in any event we will mark

(1081 to follow)

July 9, 1973  
4.45p-4.50p.m.  
B.A.

B-10810-1

(Mr. Shibley)

~~1. There are three original copies.~~

there are  
~~Mr. Chairman I noticed that other people coming~~  
~~to see three original copies, but in any event we will not~~  
~~make all of it as Exhibit 130.~~

Mr. Shibley: You have reviewed this memorandum, have you, Mr. Gathercole?

Mr. Gathercole: ~~I haven't~~ I haven't, Mr. Shibley.

Mr. Shibley: Have not?

Mr. Gathercole: No.

Mr. McCallum: This was just prepared, really, in the early hours of this morning. It arose, as you know, out of a conversation that we had earlier and Mr. Jim Durand got his people, who have been so good at doing this sort of thing, to try and put it into some booklet form to be of assistance to everyone. We had ~~discovered~~ discovered it, as you know, some of the material on Friday afternoon when I ~~endeavoured~~ endeavoured to contact you.

Mr. Shibley: Well, if we can go on then.

I don't know ~~if~~ that much turns on the draft of the 13th, or even in this chronology, reference is made to November 13 as being the draft report and I took it, Mr. McCallum, that inasmuch as the whole chronology here is intended to relate to the November 15 document, that the document, November 13 draft report, was part of that, of the series of events which led to the November 15 document. Is that not right?

Mr. McCallum: Mr. Chairman, the answer to Mr. Shibley is, yes it is a part of the material, it was as I have just told you, produced by Mr. Peter Lamb and then handed over to Mr. Ken ~~E~~ Candy ~~who~~ who apparently then used it, and used many of the documents that are in this red folder that has just been handed out in an effort to ~~get~~ get ready the November 15 statement. Is that what you wanted to know?



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4.45-4.50p.m.  
B.A.

H-1081-2

Mr. Shibley: Yes. All I want to know, though, is whether that draft report of November 13 was in the chairman's possession at any time before he received the final report of November 15th?

Mr. McCallum: No, I am <sup>ASSURED HERE</sup> ~~sure~~ that he did not have it in his hands.

Mr. Shibley: All right. Now then, you will notice in this chronology, if you will look at it with me, Mr. Gathercole, that on November 15, 1972....

Mr. McCallum: I think everyone has one but the chairman, Mr. Shibley, just hold on a moment.

Mr. Gathercole: And then there's me.

Mr. McCallum: Mr. Chairman, before we start on the questioning with respect to this, I wonder if we could just pause for a moment until I enquire, is the course of the questions in respect to this back-up material designed to demonstrate that Hydro weren't preparing this document of November 15th before the Fleck request? IN other words, is this still related to the Fleck request or is it off on just a straight matter of chronology of how this report came into being? Because I am lost as to whether it is still connected.

Mr. Shibley: Mr. McCallum, I think I can help you in that respect. It is clear that some of the material in this document of November 15th was worked up, ~~xxx~~ if we accept the material that is presented here, as from November 7th ~~xxx~~ following. I think that is a fair conclusion, because some of the documents are dated as early as November 7th. Am I not right as to that?

Mr. McCallum: Yes, you are right, sir.

Mr. Shibley: There is another document dated

*(Handwritten signature/initials)*

H-1082-1

(Mr. Shibley)

~~document dated~~ November 8, and another one November 9, and so on. Whether or not the documents of November 7 and 8 emanated from the request of Mr. Fleck may well turn upon the ~~pre~~<sup>circ</sup>vision of the time when he made that request, because he seems uncertain as to the occasion of the request. All right?

Mr. McCallum: What do I think about this? Yes, sir, and I wanted to point out just at that point that we have here a sequence of events where the only person he made the request to, when and if he made it, was to Mr. Gathercole, and Mr. Gathercole has sworn that he has no recollection of the event. So that there is some difficulty for me to understand how any of these documents could have been brought into being by that event. But it was really to follow ~~that~~<sup>your</sup> thought-process that I was asking the question.

Mr. Shibley: Again, I think that is a matter for the committee to decide upon, on all the evidence. That is one of the issues. The other issue ~~is~~<sup>was</sup> to the circumstances of the delivery of the document to the Premier and Mr. Fleck on November 16. All right?

Mr. McCallum: Yes, sir. I noticed, in looking ~~that~~ the transcript, that you had brought out, I guess it was on Friday or Thursday as well, that it had been delivered to a series of people both inside Hydro and outside, in addition to the Premier and to Mr. Fleck.

Mr. Shibley: Yes. Well, I take it that a copy was delivered to Mr. Auld, is that right, Mr. Gathercole?

Mr. Gathercole: Yes, I believe, through Mr. Toth, and Mr. Candy.

Mr. Bullbrook: I want to ask counsel a question, through you, Mr. Chairman, if I can. One thing that is causing me confusion again, and I don't want you to think I am unduly enamoured of exhibit ~~27~~ 70, but the fact of the matter is that a great deal of the material that is in both exhibit 179, and the memorandum of November 15, right, is nothing more than an expansion of an agreed upon memorandum to be prepared for commission approval. I don't want this committee, Mr. Chairman, to lose sight of the fact that the

H-1082-2

(Mr. Bullbrook)

continued rationale put forward by Hydro for the preparation of these documents still does not answer to my satisfaction, and I want to get an answer on this, and I hope counsel will help me; the reason for the chairman instructing Mr. Candy to prepare on June 5, 1972, a memorandum which essentially covers the very points that were covered in the draft memorandum of November 13 and the final memorandum of November 15, I find that important, and I would like to have an answer for it, because I just cannot at the present time, based on the evidence, accept the fact that this material contained in the two memoranda of the 13th and 15th solely resulted from the chronology now put forward by Hydro to us here, Mr. McCallum. Somewhere along the line somebody expressed concern about these things, <sup>and</sup> certainly the location of the building, the concern that resulted from the questions of the Leader of the Opposition, and I want to get some response as to why, by way of ~~the~~ example, there was a necessity to rationalize at that time the choice of the developer?

Mr. Shibley: Mr. Gathercole, maybe I can help you with the question that is being put by Mr. Bullbrook. The impression I have is that even as far back as March, 1972, Mr. Nastich was saying "We must show cause, we must develop a document that shows our reasons for doing the deal in this way." And from that point in time forward a series of efforts were undertaken to collect information, and direct it to answering any inquiries that might be made from time to time. And you will find, Mr. Bullbrook, I think, that the product of that effort finds its way into even the April 10 memorandum, and it finds its way in the ~~and~~ submission to the commission of June 23, where the recommendations of the staff to the commission are outlined. It finds its way into the press release of July ~~...~~

Mr. Bullbrook: August 25th, I'm sorry.

Mr. Shibley: July 1972 - draft

H-1083-1 follows

4.55 - 5 pm

AA

(Mr. Shibley)

the Commission and the Department of Justice.

*[Faint handwritten notes at the bottom of the page]*

Mr. Shibley: July, 1972, the draft that was sent along. It finds its way into the other rationale, if you like. It finds its way into the material prepared on the 13th of November. And it finds way ultimately into the November 15th document. I think you can trace information all the way down to the letter of April 30th, 1973, which Mr. Gathercole wrote to the Premier and which was tabled in the House. So that it is a process of osmosis, so to speak. It's a growing thing, but am I not correct in that Mr. Gathercole, that this data is repetitive for the reason that I have indicated and there is an accumulation but using old material to supplement new thoughts, these things were worked up on any given occasion. WASN'T THAT THE SITUATION

Mr. Gathercole: I would say so, Mr. Shibley. If I might just make one addition to that. You know, the debate over at the head office goes back to 1968. It wasn't news to us and we obviously had to have some good reasons. In other words, if it were a good agreement, we also had to make it appear to be a good agreement. But I would say this that I wasn't - I am not sure that ~~if~~ I testified earlier that I had directed or instructed - I think Mr. Bullbrook's word - had instructed Ken Candy to set out those ~~arguments~~ arguments. I said I discussed them with him, as I recall and out of that may have come an assumption or an interpretation from Mr. Candy that we should have some reasons explaining our CENTCOINS 2 INFO 1 ~~centrality~~ of this arrangement. WE knew it was going to be subject to discussion and debate.

Mr. Bullbrook: Well I don't want to elasticize this unduly. You see when I came, if I can put it in this

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4.55 - 5 pm

H 1083 - 2

AA

(Mr. Bullbrook)

phrase, when I came to your defense ~~about~~ about two or three days ago . . .

Mr. Gathercole: For which I appreciate. ~~that~~

Mr. Bullbrook: . . . no you don't have to respond in that connection. The point I was making there was that the fact that so much of this material contained in the November 15th memorandum by a process of "osmosis," as our counsel said, had been worked up ~~for~~ literally months and months before, so it was just as logical to conclude that you were anticipating these questions much before Mr. Fleck ever might have mentioned them to you and I frankly - that's why I was inclined to that. But that leads to the ultimate question and the ultimate question that I still don't have satisfied, if everything contained in there, Mr. Gathercole, there is a reason for it, except the rationale at length as to why Canada ~~the~~ Square was chosen. That's the one thing that I haven't been able to find out. Who first came to the conclusion that we are going to have to rationalize the choice of this corporation itself, not the choice of a developer, but the choice of this corporation and that's what eventually I want our counsel to get to and I don't mean to divert you as far as the chronology is concerned.

Mr. Gathercole: Rationalization or rationalize is a word that is used in a very broad sense. We often use rationalization in the sense of integration in an economic way.

Mr. Bullbrook: You know, it is used in exhibit 93. It is the very heading of exhibit 93.

Mr. Gathercole: I agree. It has a nice meaning, a very appropriate meaning, but on the other hand, it has a meaning that carries with it something that you are trying to justify.



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AA

(Mr. Bullbrook)

Mr. Bullbrook: Well, before we leave today, so that we don't have - especially so your counsel doesn't have a misunderstanding of the response that I would like to get, ~~somebody~~ somewhere, somebody inside Hydro, or somebody outside Hydro, regarded the choice of Canada Square, not the choice of a developer, not the choice of a location, not the choice of the lease-purchase method, but the choice of Canada Square as a matter that might require some public rationalization explanation or something of that nature. Now, that's what I want to find out before this hearing is over, who it was and why.

Mr. Chairman: Well, I can't guarantee you will find that out Mr. . . .

Mr. Bullbrook: ~~Yes~~ No, I know, but I think it is a very valid question and I ask counsel whether I - am I diverting you unduly in that respect?

Mr. Shibley: No, not at all, Mr. Bullbrook. I wish we could simply ask the question as you have and get an answer and then it would save us a lot of time.

Mr. Gathercole: Could I make an effort. I would say that no matter which developer it would be, the question would be asked, "Why that developer?"

Mr. Bullbrook: Before you had made the choice of the developer, it was obvious that the criteria that you had externally established for the choice of ~~the~~ the developer only fit one developer, and that's a fact. ~~But I don't~~ think probably

H 1084 - 1 follows

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(Mr. Bullbrook)

~~\*externally established for the purpose of the developer...~~~~only fit one developer and that's a fact.~~ But I don't

think probably we can elicit this necessarily from Mr. Gathercole. But I think it is <sup>is</sup> incumbent upon us that we are going to have to call somebody, I don't know whom, to find out where that need arose and in whose mind that need arose.

Mr. Chairman: Well, it may be one of the ~~one~~ <sup>conclusions</sup> ~~that~~ we'll have to come to ~~our~~ evidence. I think sometimes we are spending time looking for <sup>e</sup> precise answers which perhaps from recollections of various witnesses we are not going to get, and we'll just have to come to that conclusion perhaps on the preponderance of evidence in the end, and this may be one of those subjects.

Mr. Bullbrook: I do appreciate that, and the reason I interject at length at this time is because we seem to be coming to a conclusion that the report of November 15th resulted solely from newspaper reports.

Mr. Shibley: NO, you are misreading that completely. That particular report was delivered to Mr. Fleck and the Premier as the result of a request that we've gone into. There is evidence to that effect. But in terms of other occasions on which similar rationale ~~are~~ were being developed, the record is <sup>e</sup> ~~complete~~ with the evidence of that, Mr. Bullbrook.

I was only directing my inquiry at this time to this particular document because, had Mr. Gathercole answered initially that he delivered a copy of the narrative to Mr. Fleck because Mr. Fleck asked for the narrative, then the



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(Mr. Shipley)

~~the~~ necessary question to follow would have been,  
"What caused Mr. Fleck to ask for the narrative?" ~~which~~

I would have been, of course, led to the information, as to the discussion between Mr. Fleck and Mr. Cronyn, which may have saved us a lot of time. We finally got that, but this is what's taken up the time of <sup>the</sup> committee, vis-à-vis this document at this time.

Mr. Bullbrook: I have made it amply ~~and~~ clear, through the chair to you, Mr. Shipley, information that I'd like to eventually have elicited. Whether we can get it or not I don't know.

Mr. Shipley: Mr. Bullbrook, I can tell you that with the possible exception of Mr. Nastich, who seems to have been the person who ~~early~~ <sup>spring</sup> ~~early~~ arrived on the scene in the ~~spring~~ of 1972, in March, I wonder whether we are ever going to get a witness to give direct evidence as to that. He was the first person who seemed to document the need for creating the type of ~~the~~ rationale about which you've been speaking and you'll remember ~~the~~ his memoranda...

Mr. Bullbrook: Of the commission.

Mr. Shipley: ...within the commission saying, ~~any~~ one said, well I won't use the wording.

Mr. Gathercole: Mr. Chairman, I do say that whatever developer was selected, the question would be, why was that developer chosen?

Mr. Shipley: Mr. Gathercole, I can only imagine how much that question would have been asked if Ellis-Don

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C.B.

(Mr. Shibley)

had been selected as the developer.

Mr. Gathercole: Even much more.

Or ~~if~~ it were Yolles and Rotenberg, surely that question is there. We would be posing the question and ~~an answer~~ <sup>saying, "Preside"</sup> an answer. <sup>??</sup> ~~an answer.~~

Mr. Shibley: You are saying that there wasn't anything significant....

Mr. Gathercole: Exactly.

Mr. Shibley:...about the working up of this material just because it happened to be Canada Square. You would have done the same if it were Ellis-Don.....

Mr. Gathercole: Exactly.

Mr. Shibley:...or Yolles, <sup>an</sup> Rotenberg or Horizon; is that your ~~an~~ position?

Mr. Gathercole: Exactly.

Mr. Shibley: And nothing was said to you, at any time by anyone within or outside of Hydro other than what we have heard here to this moment, which would add to your evidence in that respect?

Mr. Gathercole: No.

Mr. G. Hodgson: Mr. Chairman.

Mr. Chairman: Mr. Glen Hodgson.

Mr. G. Hodgson: Exhibit 26 shows, I believe, that this was a concern almost a year before this date.

Mr. Shibley: Yes.

Mr. G. Hodgson: It was a concern of some of the Hydro people.

Mr. Shibley: You are thinking, MR. Hodgson, of the November meetings of the assistant general managers on the...


Mr. G. Hodgson: ~~NO I'm thinking about the confidential re notes about the meeting of the head office.~~

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DT~~(Mr. Shibley)~~~~of the general managers on the~~


Mr. R. G. Hodgson: No, I am thinking about the confidential, re notes ~~and~~ 



Mr. Shibley: Yes.





Mr. R. G. Hodgson: ~~Logistics~~ of Head Office project 

Mr. Shibley: Yes, that was following hard on the heels of the November 22nd meeting of the general managers and the notes on logistics 

Mr. R. G. Hodgson: But much of the concerns ~~is~~ expressed in that letter 

Mr. & Shibley: Yes. Mr. Gathercole, Mr. Hodgson is referring to the circumstance in November, 1971, November 25th of that year, Mr. Sissons did a memorandum which has been explained by, I think, yourself even, as meaning that if some salvage could be made of the plans, you were prepared to go with Canada Square alone without looking at other developers, ~~and~~  need to rationalize that decision was in the minds of the Hydro people as early as November, 1971.

Mr. R. G. Hodgson: I am also very much concerned with the middle lines in paragraph three ~~which says~~  the recent announcement that ~~the~~ Workmen's Compensation Board will be part of a major complex in the commercially prestigious Bloor and Bay area ~~which~~ could attract backlash ~~and it seems to me that~~  comes the article of November 2nd, in that context.

Mr. Gathercole: Mr. Chairman, this document, "Logistics," has been built up to be some monumental watershed  historical document ~~which~~ I ~~am~~ would have to say to you quite honestly and frankly, that to my mind it has no pretensions of that nature. It was a piece that Mr. Sissons dictated off the top of ~~the~~  head and emerged out of his frustrations ~~of~~  trying to accommodate people in other space ~~and~~ I didn't attach any significance to it at that time and I don't attach any great significance to it at this time. It is a mixed up rambling thing, ~~which~~  document, and it expresses his feelings, but he didn't

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(Mr. Gathercole)

intend it ever to ~~be~~<sup>see</sup> the light of day and I wish it ~~hadn't~~<sup>hadn't</sup>.

Mr. MR. G. Hederson <sup>Me</sup> I also remind Mr. Gathercole that Mr. Sissons said he was not a political animal, but that's a pretty political statement.

Mr. Shibley: Mr. Gathercole, I think you have been exercised probably enough about these matters already. There are a few things I would like to ask you about, though, and that is again I notice in the chronology on the 15th of November, 1972, Mr. ~~James~~ Candy received a request from Mr. ~~Sissons~~<sup>S.</sup> to provide an informational report for the hon. James Auld, preparatory to the opening of the Legislature. Mr. Candy was asked if he could have something for November 17, 1972, so that Mr. Auld could study it over the weekend. Do I take it from that entry that ~~that~~ it was not until November 15 that arrangements were made for Mr. Auld to receive his copy of the memorandum of that date? Is that right?

Mr. Gathercole: Yes, it is the same -- yes, but it is the same document that was going to him.

Mr. Shibley: Yes, now, the point, though, is if the document of November 15 was being prepared for general informational purposes to the responsible minister, how do you reconcile the fact that the request for the document on behalf of Mr. Auld was not made until November 15, by which date the document was already prepared?

Mr. Gathercole: Why did Mr. Auld not request it until November 15th? *Is that the question?*

Mr. Shibley: No, I am asking -- I say if the document of November 15 was being prepared for general informational purposes to the minister responsible, how do you reconcile that evidence with the fact that Mr. Auld only requested the document as of a date when the document was already prepared?

Mr. McCallum: Mr. Chairman, it is very difficult to understand ~~it~~<sup>ask</sup> Is Mr. Shibley ~~asking~~<sup>asking</sup> who are you getting it ready for other than Mr. Auld or ~~to~~ →

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B.A.

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Mr. Shibley: No, I thought the earlier evidence was...  
Oh well, this was prepared for all the ministers and we sent one to Mr. Auld, also, on the 16th, but it now appears that Mr. Auld asked for it on the 15th.

Mr. McCallum: That wasn't the way I had remembered it. I thought it was to be distributed internally, ~~and~~ Mr. Auld certainly asked for his on the 15th, and according to this note here, was surprised to find that they <sup>Y</sup> were able to give it to him the next day.

Mr. Shibley: Yes.

Mr. Renwick: Mr. Chairman, would you clear up my misunderstanding about this? ~~and~~ Mr. Toth, as I understand it, is with Hydro, is that correct?

Mr. McCallum: That's correct.

Mr. Renwick: Do I take <sup>from</sup> the notes for the period on November 15th relating to Mr. Toth, that I am to infer that James Auld asked for it?

Mr. McCallum: Just a minute while I find out.

Mr. Gathercole: Perhaps I can explain it, Mr. Chairman, Mr. Shibley, that there is a ~~planned~~ circulation of these documents to certain of the ministers, and one may go out to one party and one may not go out until the next day, or it may be two or three days, before the other copies are sent out.

Mr. Renwick: Just a minute. I'm asking a very specific question, Mr. Gathercole, and I would just like to wait for the answer. Am I to ~~make~~ make that inference that Mr. Auld asked for it, or that Mr. Toth, in Hydro, felt that something should be ~~provided~~ provided for the minister in the House in the light of something else?

Mr. McCallum: Mr. Toth is not here at this moment, but we understand that Mr. Auld asked Mr. Toth for some form of a statement - Mr. Auld's office, I should say, not Mr. Auld - asked for some form of a statement and Mr. Toth, acting on that



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request, went back to Candy and said he wanted such a statement, and lo and behold, Candy produced it for him the next morning, ~~which~~ It was, of course, the one that we have been talking about and which was in the course of preparation. That is as I understand it at this moment.

Mr. Renwick: Thank you.

Mr. Shibley: When, though, was the request made by Mr. Auld through Mr. Toth?

Mr. McCallum: I'm sorry, sir, I don't know.

I haven't got Mr. Toth here. He was here earlier today but he's not here now.

Mr. Shibley: Can we take it that if Mr. Toth was passing along the request to Mr. Candy on the 15th, in all likelihood he had received the request on the same day from Mr. Auld? Do you agree with that?

Mr. McCallum: It certainly could be, and if we can just wait until tomorrow<sup>of</sup>, when I can get hold of Mr. Toth you can have the precise answer, but my best guess is, yes, that could be.

Mr. Shibley: So that the document of November 15 was ~~sent~~ circulated internally to a number of people, but it was only sent to Mr. Auld because he requested it. Is that correct?

Mr. Gathercole: There is a liaison between Mr. Toth.....

Mr. Shibley: Mr. Candy is nodding "yes" to that.

Mr. Gathercole: ~~Mr. Toth~~ Mr. Toth is our representative and tries to liaise<sup>S</sup> and so he would be the one who would approach it.

Mr. Shibley: Mr. Gathercole, just hold on a minute. I see Mr. Candy nodding his<sup>S</sup> head. Was the document sent to Mr. Auld because he requested it?

Mr. McCallum: Yes, we have just said that we understood that Mr. ~~Mr.~~ Auld's<sup>2</sup> office requested it.

~~Mr. Shibley: John, this just drives me up the wall.~~  
Mr. Shibley: John, this just drives me up the wall.

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In other words, the ~~was~~ document was not sent to Mr. Auld as a matter of general informational advice to a minister, but as a result of a specific request.

Mr. McCallum: As far as we know, that is precisely the evidence that we are giving you now. We are sorry ~~that~~ <sup>it</sup> is driving you up the wall, but that is the evidence that we are giving you as best we can, and I have tried to explain to you I will do better if I <sup>can</sup> get MR. Toth here to help me. For the moment, that is the best I can do.

Mr. Shibley: You see, Mr. Gathercole, I am looking again at your earlier testimony, at page 212-2, about a quarter of ~~the~~ way ~~down~~ down the page, this is May 31, in the afternoon.

"Mr. Shibley: And would you please enlighten us as to the reasoning behind submitting that report to Mr. Auld?"

"Mr. Gathercole: There had been, as I said, questions raised about ~~it~~ it and therefore it was advisable that we inform Mr. Auld, ~~who~~ is the minister, who would be reporting in the Legislature on Hydro matters. Mr. Candy was asked to fill in Mr. Auld and inform <sup>him</sup> about the situation.

"Mr. Shibley: Similarly, on the same date, did you yourself send a copy of that report to Premier Davis under copy of a letter, as I say, November 16, 1972?"

"Mr. Gathercole: Yes I did."

(Tape H-1087 follows)



H-1087-1

(Mr. Shibley)

And then there is further exchange.

Then on page 212-3, at the bottom of that page;

"Mr. Shibley:... Now then, again, the purpose behind this communication with the Premier, Mr. Gathercole, was what?"

And your answer;

"Well again, there were questions emerging in the House and, understandably, I felt that he should be in a position to comprehend what we were doing."

"Mr. Shibley: All right. The next document is one dated November 23,..."

You notice you say "I felt that he should be in a position to comprehend what we were doing". All right.

Mr. Gathercole: That's right.

Mr. Shibley: And before I could go on with the next document is when Mr. Bullbrook interrupted and said:

"Excuse me, Mr. Shibley, just while you are on that, just one short question, why would a copy go to Mr. Fleck?"

"Mr. Gathercole: Well, a copy would go to Mr. Fleck as being the executive assistant, the director to the Premier, so he would also be apprised of what the information was."

Mr. Gathercole: I see nothing wrong in that. I see nothing that is inaccurate in that. Under our custom, Mr. Shibley, the copies would go out to certain people. A copy would go out to Mr. Auld as well.

Mr. Shibley: I see. All right.

Mr. McCallum: Mr. Shibley, I should tell you some more information I have been getting as I am sitting here learning about who Mr. Toth is. Mr. Toth has a role in the public relations department of Hydro which calls for him to liaison, as I understand it, with members of the Legislative Assembly, and certainly with Mr. Auld. You may find, when I get the answer from Mr. Toth that it won't be specifically a request from Mr. Auld's office as much as it is Mr. Toth trying to anticipate this sort of thing. Now I want to make it clear to you, sir, and to the members of the committee, that we are not trying to put words in Mr. Toth's mouth tonight. We

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(Mr. McCallum)

are trying to do our best to give you some idea of what the answer is that you seek when we don't have the witness here. And it is, therefore, possible that that ~~is~~ also is a possible answer, that he is seeking merely to anticipate the sort of thing that ~~will~~ will be needed by Mr. Auld when the House opens on the 21st.

Mr. Shibley: Well then Mr. Gathercole, on the 21st, were you alerted to the information provided to the House by the Prime Minister?

Mr. Gathercole: Probably, yes.

Mr. Shibley: Yes.

Mr. Renwick: Mr. ~~Shibley~~ Shibley, may I just interrupt here. I think that what Mr. McCallum said helps me over my hurdle because I can therefore take it that either the request for it came from Mr. Auld's office or it originated in the PR branch of Hydro to provide something to Mr. Auld?

Mr. McCallum: Yes, I ~~had~~ <sup>have</sup> the head of the PR branch in Hydro here, and in between trying to listen to the questions and the answers given by Mr. Gathercole, I have been trying to get informed. And in bits and pieces, and I know Mr. Shibley finds this frustrating, I get this information and try and pass it along to you. And I think that is so, sir. We are having some difficulty but I think that is a fair conclusion, at this moment.

Mr. Renwick: Then, Mr. Chairman, I would like to ask Mr. Gathercole. I ~~am~~ trust it is within the framework of your questions, Mr. Shibley, I would like to ask Mr. Gathercole what was the precipitating cause which led to the preparation of the November 15 document which is exhibit 112?

Mr. Gathercole: I think I explained that in my previous testimony, Mr. Renwick, which is the various newspaper articles that were appearing, the editorial in the...

Mr. Renwick: Now let me say: When you say the various newspaper articles; are you referring to the exhibit 180, the item referred to as November 6, 1972, Toronto Globe and Mail editorial, "The Economics of Hydro"?

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CA

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Mr. Gathercole: That is one of the pieces of evidence, yes.


Mr. Gaunt: It is 109.

Mr. Renwick: Yes, which is...

Mr. Gathercole: There was also one on November 14, ~~There~~  
was one on September 1.

Mr. Renwick: Wait a minute, the September 1 one would not  
have ~~precipitated~~ <sup>precipitated</sup> Mr. Candy on November 7 to start to work on  
something, Mr. Gathercole.

Mr. Gathercole: No, but it was an early ~~one~~ WARNING.

Mr. Renwick: In my mind, Mr. Gathercole - follow my  
attempt at logic, coupled with some sense of human experience, and  
the frailty of recalling it. 

H-1088-1 follows

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5:15- 5:20 pm

C.B.

(Mr. Renwick)

~~my attempt at logic coupled with some sense of human experience and the reality of escalating it~~ Mr. Toth or Mr. Auld wanted a document. If Mr. Auld wanted it, it was because ~~he~~ Mr. Auld wanted it; ~~and~~ Mr. Toth wanted it, it was because he wanted to furnish <sup>it</sup> to Mr. Auld, and it had nothing to do with the inner management of Hydro that ~~was~~ <sup>was</sup> involved with the head office. It had nothing to do with MR. Candy, nothing to do with you, nothing to do with Mr. Sissons.

Then I find that - I want to put this in as an interjection. I certainly believe, and I guess we all look at the exchanges in which we're involved, that Mr. Fleck said to me that he might very well have never asked for it. I think ~~the~~ the exchange which he had with me on the second day of his evidence, that that might be the ~~substance~~ substance of it.

If he didn't ask for it, which coincides with you recollection, Mr Gathercole, ~~that~~ <sup>what</sup> is the origin of the memorandum, exhibit 112, and why was it sent to the Premier rather than just sending it to Mr. Auld? Mr. Auld is a member of the Legislature; Mr. Auld responds, ~~and~~ One of the last things you can ever get, usually, the Premier to respond to, is a request ~~about~~ about a matter on which another minister reports.

Mr. Gathercole: Mr. Renwick, a copy was made available to Mr. Auld in various forms and I would say this, that Mr. Toth also works in close relationship with my executive assistant and is apprised of documents

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(Mr. Gathercole)

that are going out. ~~But~~ the question is why it should go to the Premier rather than to Mr. Auld?

Mr. Renwick: Why should you send it to the Premier with a copy to Mr. Fleck? I take it that's what we've been spending our time on.

Mr. Gathercole: Yes, right. My feelings about it are these, Mr. Renwick. That the debate in the Legislature previously, going back into 1968 and earlier, had been between the Premier of the province and the Leader of the Opposition, ~~and~~ When Mr. Nixon raised the subject about the Head office building, I think it was in 1968, it was the Premier who participated ~~in~~ in the debate, ~~and~~ It was for that reason that I did ~~it~~.

Mr. Renwick: We have no evidence of that, and I don't think that the matters in 1968 would be ~~germane~~ germane to this question.

Mr. Gathercole: It was certainly very much germane, in my mind, and this is why I felt that since it involved a top-level political discussion ~~that~~ the Premier, Mr. Fleck, ~~and~~ Mr. Auld should all be apprised of the situation and in a position to understand it insofar as possible and to respond to questions which <sup>would</sup> arise in the Legislature.

Mr. Renwick: Let me put it to you this way, Mr. Gathercole. Contrary to what other people may think, I think that the Hydro-Electric Power Commission of Ontario is highly sensitive politically, and highly sensitive to its public image. Those are two things that come through to me from a number of ways in this evidence and elsewhere;



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C.B.

(Mr. Renwick)particularly

~~particularly~~ with the glossy, proofed documents that I ~~now~~ receive regularly from Hydro.

Now, secondly, you have, throughout this matter related to the Hydro building, at no time consulted with Mr. Auld about the head office. ~~He~~ He's the one who reports to the assembly about it.

Mr. Gathercole: No, I'm sorry, Mr. Renwick; on ~~that~~ <sup>that</sup> point, I did from time to time discuss with Mr. Auld that we were proceeding with our ~~the~~ head office, that we wanted to ~~to~~ get ahead with it. But I didn't have any detailed discussions with him on it.

Mr. Renwick: In other words, he was not a significant minister, from your point of view, about this highly sensitive matter that you were dealing with? I'm not ~~believe~~ me, Mr. Gathercole, I'm not ~~not~~ reading anything into the word "sensitive"; sensitive ~~from~~ politically and with respect to the public image of Hydro.

Mr. Gathercole: Task Force Hydro said we were too insensitive, remote, etc.

Mr. Renwick: From what I can see Task Force Hydro never met with Hydro!

Mr. Gathercole: I'm just saying ~~that~~ <sup>that</sup>..... I would say that, with respect to Mr. Auld, we worked very closely with Mr. Auld on quite a number of matters.

Mr. Renwick: I don't want to get side-tracked, Mr. Gathercole. I think that Hydro knew from a way back that it was dealing with something which if not handled with great sensitivity would blow up. ~~Now I'm not reading into that any....~~

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5.20 - 5.25 pm

H 1089 - 1

AA

(Mr. Renwick)

~~the combination was either~~ with great sensitivity would blow up.

Now, I am not reading into that any specific things, but the combination was either, ~~the government~~ "ret the building built" or "If we are not terribly careful, the government will veto it" or "~~the~~ If we are not terribly careful, they are going to disperse us all over the Province of Ontario and we will never be able to work together"; and all of the other matters which finally, ultimately led to this <sup>en</sup>quiry.

Now, I am telling you my impression, that you are extremely sensitive about this issue, that it was not a minor issue, that you weren't engaged in all sorts of other great ~~the~~ projects which <sup>pre</sup>occupied your time to the exclusion of this problem, and that along about the first of November or thereabouts, having carefully handled this very explosive topic from the summer of 1971, when you first started to revive the project, through until November 1, 1972, you were sensitized to the point where you felt that there had to be a document prepared, ~~somebody felt~~ that had to be gotten into the hands of the ~~the~~ Premier. Now, it wasn't Mr. Auld who was sensitive about the ~~the~~ matters <sup>12</sup> because apparently he was either requesting it for informational reasons or Mr. Toth was going to furnish it to him for informational reasons. Mr. Fleck, on the balance of the evidence at the moment, didn't make any impression on you ~~that~~ that he wanted it and yet a document is prepared of great significance and sent to the Premier of the province on November 16th by yourself.

Now, within that ~~the~~ framework, and bearing in mind, despite Mr. McCallum's caveat about it, bearing in mind, if my recollection is ~~the~~ correct, the sensitivity of the Fidnam building which was also going to be the head office of another large commission, having something to do with



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5.20 - 5.25 pm

(Mr. Renwick)

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government, bearing all that in mind, can you tell me whether instructions were given for the preparation of the November 15 memorandum, or whether Mr. Candy just thought it would be a good idea if he put together a few rambling thoughts about the building. How does it come through to us? It went to the Premier, and it went to the Premier two days after you had met with him and what — how many days after a prior meeting with him?

Mr. Gathercole: November 1.

Mr. Renwick: November 1. Now, ~~do I~~ do I create. . . .

Mr. Shibley: November 9th.

Mr. Renwick: November 9th. Sorry — November 9th, after a commission meeting on November 8th and so on. Now, that's the atmosphere within which I sense that we are acting, that we are trying to recreate in our minds here in order to get a feeling about what is taking place. Now, can you help me as to why this document went to the Premier on that day and who prepared it and why.

Mr. Gathercole: It went to the Premier when it had been ~~completed~~ completed by Mr. Candy and those others who were engaged upon its preparation, ~~it~~ went only at that particular time.

Mr. Renwick: Did you know it was being prepared?

H 1090 - 1 follows

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5.25 to 5.30 pm  
DT~~(Mr. Gathercole)~~~~operation and it was not a top level political issue~~~~Mr. Renwick: I don't know it was being prepared~~Mr. Gathercole: Well, we knew. I don't know whether

I instructed, I can't recall definitely directing <sup>any</sup> any one to prepare this material, but we knew we had to have material ready because questions would be coming up in the Legislature concerning the building; and I would say this, that the sending of it to the Premier did not rest on the particularity of the developer but rather on the fact that we were proceeding with a head office. That, in itself, would have been the justification for sending it to the Premier, because it had been a top level political issue, as you know, Mr. Renwick.

Mr. Renwick: All right, so we have established that that it's a top level political issue so far as Hydro is concerned and therefore the Premier should be alerted about it.

Mr. Gathercole: Yes.

Mr. Renwick: Should be aware of it.

Mr. Gathercole: -- from the standpoint of whether it be in Toronto or outside Toronto.

Mr. Renwick: And so far as Mr. Fleck's evidence is concerned, whether he called you or didn't call you, it was also a particularly sensitive matter for Mr. Fleck.

Mr. Gathercole: I would think that Mr. Fleck would certainly want to have information on it.

Mr. Renwick: Yes, so--

Mr. Gathercole: Very definitely.

Mr. Renwick: Perhaps it really doesn't matter who called who. The Premier's office considers it a highly sensitive matter in the very early part of November and Hydro considers it a very highly sensitive political matter of <sup>of</sup> top importance, not in the long run of ~~Hydro's~~ Hydro's operations but at this precise period of time the matter which is to preoccupy Hydro, and they want to be prepared for it.

Mr. Gathercole: It was a very significant matter which required attention.

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DT

Mr. Renwick: Did you ask for a memorandum to be prepared the result of which was the November 15th memorandum?

Mr. Gathercole: Well, if I didn't ask, I can tell you this, that it would be our normal procedure --

Mr. Renwick: No, I don't want that. I want to know whether there was anything in conjunction with your meetings with the Premier of the province or in the possibility or probability, and I think it's probably a probability of Mr. Fleck's request to you, did you ask ~~a~~ for the November 15 document to be prepared?

Mr. Gathercole: Not out of anything arising with the discussions with the Premier, no. This is what I thought your question was, if I had asked him --

Mr. Renwick: Let me ask you - we are ~~a~~ adverting, if I may, to the matter which Mr. Bullbrook has been talking about - consistently throughout all of these documents, I can almost memorize them now and recite them to the committee, somewhere in the operations of Hydro; in-house capability to handle the complete package; (b) previous experience and lease-purchase arrangements and building management; ~~a~~ (c) capability to handle <sup>a</sup> ~~the~~ project of this complexity and scope; (d) minimum of other interests and commitments so that full attention could be given to the carrying out of this project as expeditiously and efficiently as possible; (e) agreement to retain an outside consulting architect at the developer's expense to ensure the most aesthetic and efficient design for this location, keeping in mind the regional planning of the area <sup>1-2-3</sup> and I note the very nice arc on the Canada Square building ~~was~~ which would fit in with the treasury building further opposite in the Queen's park area; and (f) previous client satisfaction.

Now, those reasons, and I think this is the thrust of what Mr. Bullbrook was asking about, those reasons appeared early in what, whether we call it the justification or the rationalization of the decision to select Canada Square, and they pre-date, certainly, any consideration of the proposals.

I am not saying that their precise language appeared, but I am saying that the substantial idea about those items appeared

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AA

(Mr. RENwick)

~~They~~ appeared very early and are a recurring thread throughout the process of all of the documentation which was used to rationalize or justify the ultimate selection ~~and~~

Mr. Gathercole: Or explain.

Mr. RENwick: ~~and~~ or explain the ultimate selection of the developer ~~and that~~ all of them, and I say ~~this~~ without exception, all of them preclude any other developer from meeting those requirements.

Mr. McCallum: Mr. Chairman, that's Mr. ~~Renwick's~~ Renwick's evidence. There has been, I'll remind the committee, evidence on the particular point, and it doesn't agree with his. They went over with this witness, for instance, those same points, point by point, and that was not his agreement. ~~They~~ went over it with Mr. Candy, and he didn't seem to arrive at ~~the~~ exactly the same position Mr. Renwick does today. It is good to have his evidence on the matter, too.

Mr. RENwick: I agree. I am going now to make a request, if I may, as to whether it would be possible for someone to look through the exhibits and find out for us where these phrases had their origin.

Mr. Pullbrook: May I say something, if you will permit ~~me~~? Mr. Renwick, you will find that there is an expansion in the chronology of the explanation, a changing of wording from time to time, but the substance is there.

Mr. RENwick: Yes.

Mr. Shibley: The only concern I have ~~is this~~ is this, as soon as you made that outline, Mr. Renwick, the one portion of it that excited some concern on my part is that you said that they all predated ~~at least~~, that these statements predated a review of the ~~submissions~~ submissions of the four developers which would necessarily be pre-January, 1972, ~~and~~ I am already rifling the documents to ascertain whether that is accurate or not. I have the feeling that, although

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AA

(Mr. Shibley)

there was a lot of work ~~of~~ documentation before that time, I am not sure that (a) through (f), whatever you have been reading, ~~and~~ came into being before January, 1972. But as to the rest, I'll leave it.

Mr. Renwick: All right. I am thinking particularly, ~~of~~ going back in my mind ~~of~~ the document that Mr. Hodgson of Victoria-Haliburton referred to ~~and~~ I am also, ~~I think~~, ~~of~~ going back to the document where, if I may use the phrase, Mr. Dean ~~seemed~~ to have changed his view, in the early origin of the documentation which was in late June or early July of 1971. Now, I have gone on at some length, but I wanted to get the sensation of two things. One is the pre-conditioning operation, as it comes through to me, to the acceptance of Canada Square ~~and~~ I am not answering the more difficult questions ~~and~~ Secondly, that this matter, which may have come to a head from time to time, is finally going to come to a head, ~~perhaps~~ ~~emerge~~ and ~~explode~~ in ~~November~~ November of 1972, ~~and~~ I can't ~~understand~~ ~~from~~ any of the evidence, other than perhaps the very simple explanation ~~that~~ that you ~~recognized~~ ~~it~~ <sup>to be</sup> so highly sensitive and the Premier's office recognizes it is highly sensitive, politically, ~~and~~ therefore, ~~you~~, in that atmosphere and with the long background of it, this document, exhibit 112, is prepared. ~~And~~ <sup>maybe</sup> there is no other explanation of it.

Mr. McCallum: Well, would you add a couple to your list of people who apparently, according to the evidence, have thought it was highly sensitive. One is the Leader of the Opposition. He apparently thought it was highly sensitive. He has a record of saying, "No, no, not over there on the other side of the square." ~~Another man that -~~ Other people who think it is highly sensitive politically, apparently, and who we have a record of in front of the



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AA

(Mr. McCallum)

tribunal, are the press who from time to time have seen fit to comment on it.

Mr. Renwick: That's right.

Mr. McCallum : So that there seems to be a fair square, or round-about people who might have thought it had some political sensitivity.

Mr. Renwick: I certainly accept those two - those two and others.

Mr. McCallum: And others.

Mr. Renwick: Because all I am interested in establishing is what I ~~understand~~ understood Mr. Gathercole was saying in the ~~last~~ ~~part~~ ~~of~~ ~~the~~ ~~testimony~~.

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B.A.

H-1092-1

(Mr. Renwick)

~~Mr. Gathercole~~ was trying to play down ~~with~~, in answer to counsel's questions, that ~~somebody~~ or other this wasn't a top matter of prime concern, politically, to Hydro.

Mr. Gathercole: Oh, I see.

Mr. Renwick: And the only way in which it can become politically sensitive is because of either the media or the opposition, really, so that is what I do agree with.

Mr. Gathercole: Mr. Renwick, you must have misunderstood my references on the subject. I did ~~say~~<sup>mean</sup> it as having been a top political issue. I have said that repeatedly, that I have regarded it as such back in 1968, and on through that it would be, but what I was doing, at one stage, was that I was saying that this was one issue among many and that there were other matters which were ~~about~~ absorbing a great deal of ~~our~~<sup>our</sup> time and that is with respect to transmission lines, capacity and fuel and a lot of other matters. ~~Remember~~

Mr. Renwick: But in the context of political sensitivity, at the time that Mr. Shibley is talking about, there was one issue that was paramount and that is involved with this month of November, 1972; and I suppose, maybe, that is an acceptable reason, ~~what~~ if there is no other reason why the memorandum of November 15 would be prepared.

Mr. Gathercole: That was the reason, Mr. Renwick.

Mr. R. G. Hodgson: Mr. Renwick, you might refer to Exhibit 91.

Mr. Bullbrook: What is Exhibit 91?

Mr. R. G. Hodgson: That is an ~~exhibit~~<sup>exhibit</sup> from Mr. Gordon regarding Roger Serin's comments on the ~~recent~~<sup>recent</sup> commission ~~meeting~~.

Mr. Gathercole: Oh, my god, we are not back to that.

Mr. R. G. Hodgson: It is also another reason.



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E.A.

Mr. Shibley: I was referring to the fact that the wording "if the building became an issue in the newspapers" at the tail end of the first ~~para~~ paragraph.

Mr. McCallum: Having mentioned that, I don't think, I am not sure, Mr. Chairman, ~~whether~~ whether you have yet in evidence all the newspapers. I think you had them up until <sup>about</sup> the time of the 9th, I don't know if you asked for them after that, but there was an article that appeared on the 14th November. Are they in, maybe Mr. Shibley can tell me, is that in as well?

~~Mr. Shibley~~

Mr. Renwick: I think we have them.

Mr. <sup>SHIBLEY</sup> Shibley: At 110.

Mr. McCallum: <sup>At</sup> 110. Well, you will remember that that particular newspaper article on the 14th quotes the leader of the Opposition as suggesting that what they ought to do is to cancel the ~~new~~ contract that they have signed for this head office. I don't know what kind of fluttering in the dovecots that provides for ~~new~~ politicians, but when it is an attack ~~of~~ right on the very contract that has been made, it is perhaps not idle speculation to expect that it would provide something in the breasts of the politicians, starting on the 14th. And that is apparently what the article does.

Mr. Shibley: You always open new doors. ON the 14th November, when that article was published, Mr. Gathercole, you also had a meeting with the Premier, didn't you?

Mr. Gathercole: Yes, but it certainly wasn't on this topic, Mr. Shibley.

Mr. Shibley: No, but you are telling the committee notwithstanding that it was a politically sensitive situation and that it was already ~~in the air~~ <sup>in the air</sup> ~~concurrent~~ on the very day that you were meeting with the Premier, you had no discussion with him about the head office building on that occasion.

Mr. Gathercole: That's right. That article appeared in the Star, did it not?

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B.A.

Mr. Shibley: Yes, it did.

Mr. Gathercole: My meeting with the ~~Prime~~ Premier was 11.30 in the morning of November 14, so I would not have even seen that article.

Mr. Shibley: ~~I~~ I see. What time did you meet with the <sup>e/</sup>Pr~~ime~~mier?

Mr. Gathercole: 11.30.

Mr. Chairman: Well, whether it is or it isn't.....

Mr. Shibley: Maybe we can find out.....

Mr. Chairman: . . . . no evidence.

Mr. Gathercole: In any event, I didn't see it.

Mr. Shibley <sup>SECRET</sup>: The point of the matter is, forgetting the exact timing of this sort of thing, ~~the whole point of my~~  
~~series of questions is to find out if there was any~~

(Tape H-1093 follows)

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5:40-5:45 pm

(Mr. Shibley)

the whole point of my earlier questioning to you was, this was a ~~very~~ <sup>a</sup> pressing time referable to a sensitive topic, and what I ~~fail~~ <sup>fail</sup> to understand is why you have no recollection whatsoever of the circumstances of Mr. Fleck asking you for the narrative.

Mr. McCallum: Mr. Chairman...

Mr. Shibley: Mr. McCallum, please, I would like...

Mr. McCallum: No...

Mr. Shibley: ~~...~~ I'd like the witness's answer.

Mr. McCallum: NO, I don't propose to give in that easily. I want to be respectful to this committee but I don't propose to. Mr. Chairman, we have been....

Mr. Shibley: ~~...~~ Mr. Chairman...

Mr. McCallum: NOW ~~...~~ just a moment, Mr.

Shibley. We have been a great part of today on this same exact question, and I am most respectful of the difficult job ~~the~~ <sup>has</sup> counsel for this committee has, and ~~...~~ you as members of the committee and as chairman. But I do think, and I am going to suggest to you most respectfully, that there comes a time when we get back to the same question for I don't know how many times today, that it isn't needed. The man has given his best answers with respect to it and I would hope we could leave it there.

Mr. Chairman: I think that the committee will have to make their decision in regard to what has been said. ARE there any other questions that anyone has to ask of Mr. Gathercole now before we close for the evening?

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5:40-5:45pm

C.B.

Mr. Renwick: Mr.Chairman, yes I do. With respect to exhibit 109, this is the Globe and Mail editorial of November 6.

Mr. Gathercole: Thank you very much.

Mr. Renwick: Would you have had occasion to have been interviewed ~~by~~ by the Globe and Mail in connection with that editorial before it was written?

Mr. Gathercole: No, not in this case.

Mr. Renwick: YOU'd have no recollection of it?

Mr. Gathercole: No, I have no recollection of having been asked any questions pertaining <sup>to</sup> the preparation of this editorial. Later on I was approached, in the April period, I guess it was.

Mr. Renwick: If I may draw your attention to the last paragraph, with ~~the~~ minor exceptions it all appears ~~to~~ ~~like~~ to have been contained in the August 25 press release. But perhaps...

Mr. <sup>R</sup>G. Hodgson: No.

Mr Gaunt: No.

Mr. Renwick: Not all of it?

Mr. Gaunt: Mr. Chairman, there are some rather major points, I think, that were not included in the August 25 press release.

Mr. Renwick: I defer to Mr. Gaunt if he knows what they are.

Mr. Gaunt: Well, for instance, halfway down the first paragraph, when the editorial is talking about the employees at the research labs at Kipling Avenue, that certainly isn't in the press release. The projected savings of \$1 million in time and transportation ~~that~~ isn't in the press release.

Mr. Walker: I think there is some casual reference to it

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5:40-5:45 pm

C.B

Mr. Gaunt: Yes, I notice that it is in the document 179, but it isn't in the press release of August 25.

The fourth paragraph, starting off "Mr. Gathercole", essentially is not in the press release either, with the exception of the notation of 23,000 employees in 1971; what's the only thing that is contained in the press release.

The matters the next paragraph are not in the press release either, having to do with the eight million kilowatts in 1965 and the fact that the need for power has risen dramatically, but the staff hasn't risen in the same proportion as the demand for power. Those matters were not in the press release of August 25.

Mr. Renwick: Perhaps in the light of that, that helps me rather than anything else, but perhaps Mr. Gathercole would inquire as to whether or not, perhaps the Hydro staff will inquire as to whether or not anybody gave an interview to the Globe and Mail which led to that editorial of November 6. Because the Chairman quoted quite freely, and what Mr. Gaunt indicates is that a number of the matters are not contained in the August 25...

Mr. Gaunt: MR. Chairman, Mr. Renwick may note though that Mr. Gathercole is quoted in the editorial. When it says "Mr. Gathercole defends staff"

Mr. Renwick: Yes, that was the point I was making, that a number of the items that Mr. Gaunt has referred to are stated to be statements by the chairman and are not included in the August 25 press release.



H-1894-1

(Mr. Renwick)

~~stated to be statements by the chairman and were not included in the~~

~~August 25 press release.~~

Mr. McCallum: Mr. Chairman, if I may, I can throw some light on it, I think. There was a communication, or information that was sent down to the Globe and Mail either during or after the strike, and some of this information to which reference has been made by Mr. Gaunt was contained in that statement. WE don't know at the moment because we haven't got it here. It may even have been signed by Mr. Gathercole, ~~but~~ <sup>and</sup> It was this business of the number of people employed and so on ~~was~~ <sup>and</sup> relative to that issue, so they may well be quoting from something that he sent to them, don't you see, relative to that? We'll try and find that for you if it will be of assistance to you.

Mr. Chairman: I don't want, ~~at~~ at this point, ~~lead~~ <sup>lead</sup> the committee to expect that we may be getting this information from Mr. Gathercole. It may come from Mr. McCallum or some other source. I would hope that if you have any more questions ~~from~~ <sup>from</sup> Mr. Gathercole you would ask them now.

Mr. Renwick: Mr. Chairman, I recognize that Mr. Gathercole has been here for some time and I realize the difficulty, but I ask you not, at this particular point, to make any ruling with respect to the questioning of Mr. Gathercole because it is so focused to what we are trying to do.

You will recall from the evidence, Mr. Gathercole, that Mr. Smith was referred by Mr. Dillon who is a member of Task Force Hydro <sup>and</sup> I gather if my memory serves me rightly, the dean of engineering at the University of Western Ontario.

Mr. Gathercole: He formerly was.

Mr. Renwick: Formerly yes.

Mr. Gathercole. I think he is on leave of absence from there.

Mr. Renwick: Yes, and is a consultant with the Hydro, I believe. Is that correct?

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CA

H-1094-2

Mr. Gathercole: He is at ~~the~~ <sup>the</sup> ~~present~~ time carrying on ~~that~~ from Task Force Hydro with respect to certain studies in Hydro pertaining to the implementation of ~~some~~ <sup>some</sup> Task Force Hydro proposals.

Mr. Renwick: In any event, he recommended to Mr. Smith that Mr. Smith get in touch with Roger Seguin. Do you recall having any conversation or discussion with Mr. Dillon, in his capacity as a member of the Task Force, about the Hydro building or its location, or the way in which it was going to be constructed?

Mr. Gathercole: No.

Mr. Renwick: Of all of the members, either as a group, or individually, of Task Force Hydro, was there any discussion that you had with Task Force Hydro or any of its members about the head office building?

Mr. Gathercole: No. Mr. Gordon is a member of the Task Force, as you will understand.

Mr. Renwick: Yes, but I am speaking of discussions you may have had.

Did Task Force Hydro ever enter into any discussions with you about the location of the head office?

Mr. Gathercole: No.

Mr. Renwick: Was the question of the dispersal of the head office organization, either into some less expensive area or on a geographical dispersal basis, raised with you by the Task Force Hydro?

Mr. Gathercole: No.

Mr. Renwick: ~~and~~ I take it that you had no specific discussions with Mr. Cronyn about any matters related to the head office building?

Mr. Gathercole: None whatsoever.

Mr. Renwick: Or with Mr. Fleck in his capacity as executive director of the ~~Joint~~ <sup>Joint</sup> Committee on Government Productivity prior to January 1, 1972?

Mr. Gathercole: No.

Mr. Renwick: And yet Task Force Hydro was appointed in 1970?



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CA

H-1094-3

Mr. Gathercole: Is it that long ago?

Mr. Renwick: I believe so.

Mr. Gathercole: I am not able to identify the date of  
~~the~~ you

Mr. Bullbrook: December 23, 1969.

~~XXXXXXXXXXXXXX~~

Mr. Gathercole: Are you thinking of the Committee on  
Government Productivity?

Mr. Bullbrook: Oh, I'm sorry. I'm sorry. You are quite  
right.

Mr. Renwick: I thought it was about.

Mr. Gathercole: Task Force Hydro was a couple of years  
later.

Mr. Shibley: March, 1971.

Mr. Renwick: March, 1971? I'm sorry, I thought it was  
1970. March, 1971. So that, as Mr. Hodgson pointed out, and I  
think, as Mr. Cronyn confirmed, they felt the best way was for  
Task Force Hydro to be a separate committee which would report ~~the~~  
through the Committee on Government Productivity. But I take it  
that Task Force Hydro were not involved in any discussions about  
the head office building, either as a group or individually, with  
you as chairman?

Mr. Gathercole: No, with me, and I am not aware of any  
other discussions ~~in~~ <sup>about</sup> ~~the~~

Mr. Shibley: Mr. Renwick, maybe you might  
complete that topic by asking when the function of Task Force Hydro  
was completed?

Mr. Renwick: Perhaps you would answer that question,  
Mr. Gathercole, if you are aware of ~~the~~

Mr. Gathercole: I think the committee ~~has~~ work was  
formally wound up two or three months ago, ~~but there has been~~  
~~some carry-over~~

H-1095-1 follows

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DT

(Mr. Gathercole)

~~months ago~~ but there has <sup>ve</sup> been some ~~work~~ on treaties or reports that Mr. Dillon has been engaged in ~~work~~ bringing to fruition.

Mr. Chairman: As a ~~member~~ member of that, Mr. Gordon, have you any comment on that?

Mr. Gordon: We are still working on the last report.

Mr. Renwick: On the last report now, are you?

Mr. Gordon: We are still working on it.

Mr. Renwick: I don't believe I have any other

questions.

Mr. R. G. ~~Hodgson~~ Hodgson: Mr. Gathercole, I believe you said ~~you were~~ you were originally on the task force?

Mr. Gathercole: Yes, initially.

Mr. R. G. Hodgson: How long were you on it?

Mr. Gathercole: Well, I wasn't on it except prior to

the announcement of its establishment.

Mr. R. G. Hodgson: You weren't an official member

then?

Mr. Gathercole: I wasn't an official member, but ~~there~~ <sup>at</sup>

~~one~~ one time it was thought that I would be a member of it, and then I think the Premier in his wisdom concluded that ~~the~~ the chairman <sup>with</sup> along the general manager shouldn't be on that committee and so he asked me if I would mind dropping off, which I was glad to do.

Mr. Chairman: Any other questions of Mr. Gathercole?

Mr. ~~Mr. Allan~~ Allan.

Mr. Allan: ~~There has been~~ <sup>There has been</sup> a great

deal of discussion as to the relation of ~~the~~ Task Force <sup>Hydro</sup> and the operation of Hydro, <sup>Hydro</sup> now it was my understanding that ~~the~~ Task Force <sup>Hydro</sup> had nothing to do, or didn't become involved at all, in Hydro's operations, am I correct in that?

Mr. Gathercole: ~~We had~~ <sup>We had</sup> several reports, one of which --

Mr. Allan: Well, ~~the~~ <sup>we</sup> made reports on the operation,

but to be involved with your staff in discussing or having anything ~~to~~ to do influencing operations?

Mr. Gathercole: It made some recommendations concerning

~~in~~ in-house or out-of-house activity, the type of organization.

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DT

*But it didn't take any part in the day-to-day*  
 Mr. Chairman: ~~the~~ running of Hydro?  
 Mr. Gathercole: Oh no, absolutely no.  
 Mr. Allan: Oh no, they are entirely separate.

Mr. R. G. Hodgson: But wouldn't <sup>it</sup> you say they had a  
 part in the decision on this new building?

Mr. Gathercole: I don't understand --

Mr. R. G. Hodgson: Their reports.

Mr. Gathercole: -- in what way other than <sup>the</sup> I think  
 one of the thrusts of their reports was that Ontario Hydro wants  
 to participate more fully in co-operative types of development  
 which would promote the economic growth and the advancement of  
 the province.

Mr. R. G. Hodgson: Well, I would like to question  
 you in particular with regard to the ~~entirely separate~~ new format  
 and the possible relationship to the 12 cars in schedule C of  
 the contract. Was that not part of the recommendation of  
 Task Force Hydro and accepted and incorporated in the new design  
 of the new building?

Mr. Gathercole: I am sorry, Mr. Hodgson, I don't  
 follow you.

Mr. R. G. Hodgson: Well, some place Hydro made a  
 decision that they ~~are going to~~ and the commission of the  
 Crown corporation to include more <sup>people</sup>

Mr. Gathercole: Hydro didn't make a decision.  
 The Task Force made a recommendation that it be converted from a  
 commission type of organization to a corporation although it had  
 been a body corporate. It is described in the Act before, but the

(1096 to follow)

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5.55 - 6 pm

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AA

(Mr. Gathercole)

~~although it had been a body corporate, it was dissolved~~  
~~in the past, but the membership of the new board~~  
was to be enlarged to 13 members as against six previously.

<sup>R.</sup>  
Mr. G. Hodgson: But didn't Hydro reflect that  
in the new design and accept ~~that~~ that sort of premise  
that ~~that was to be~~ the future, ~~was to be~~

Mr. Bullbrook: The general manager wouldn't  
have a parking space.

<sup>R.</sup>  
Mr. G. Hodgson: I think it had to be part of it.

Mr. Gathercole: He is now going to be the  
president.

Mr. Chairman: Well, that could or could not be.  
I suppose that . . .

Mr. Allan: Mr. Chairman.

Mr. Gathercole: No, I don't see it. I don't  
think it had any . . .

Mr. Chairman: On the day-to-day operations, I  
don't think Task Force Hydro was making recommendations as  
to what you should do with the problems that were on your  
desk every morning when you came in your office.

Mr. Allan: That is my contention.

Mr. Gathercole: Exactly.

Mr. Renwick: Well, Mr. Chairman, perhaps  
the reason for my questioning was twofold with respect  
to Task Force Hydro. One was to clear up the matter with  
respect to Mr. Dillon who had been the one who had made  
the reference that Mr. Smith should deal with Mr. Seguin,  
and the second one was because of Mr. Cronyn's evidence  
that in his meeting with the Premier, the date of which  
has not as yet been fixed, the matter which he discussed  
with the Premier, insofar as it related to the head office  
question was within the broad context, as I understand it,

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AA

(Mr. Renwick)

of the chairman of the Committee on Government Productivity to whom Task Force Hydro had or was about to report on the question of the dispersal of the head office operation and the decentralization of it. Now, that's my recollection of Mr. Cronyn's evidence and that's the reason why I had asked the question as to whether or not ~~Hydro~~ Task ~~Force~~ Hydro had not discussed with the chairman the question of whether there should be a central head office or not. <sup>B</sup>Because along about the end of - along about the middle, or somewhat later, in 1972, the evolution of the public relations document with respect to the head office of Hydro was directed towards specifically answering the questions as to why we should still be in one central place in Toronto. I think it is in Mr. Candy's memorandum to which Mr. Bullbrook has referred, exhibit number 70. Those were the two reasons why I was trying to clear up my mind the question of Task Force Hydro.

Mr. Gaunt: Well, Mr. Chairman, is it not also true that one of the terms of reference of Task Force Hydro involved itself in the financial aspects of Hydro so that any peripheral way, certainly Task Force Hydro would be involved to an extent with the head office building, particularly if one were to make judgements as to the alternatives? You know, the fact that if you go out onto the market and borrow money for your head office buildings affects your equity debt ratio, and so I presume that Task Force Hydro would be concerned with that ~~as~~ aspect as well as with other matters financially, would it not?

Mr. Gathercole: Well, Mr. Gaunt, I think that is a detail which they didn't embark on trying to unravel but this is just my ~~own~~ maybe Mr. Gordon may. . . .

Mr. Gordon: We were really looking at the financial problems of the future rather than the ones that are on our desk today.



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AA

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(Mr. Gaunt)

Mr. Gaunt: So, in that respect, really the head office building, from the financial point of ~~and~~ view, didn't receive any consideration of ~~Task Force~~ Task Force Hydro.

6 Mr. Shibley: Mr. Gathercole, one thing I think I should go over with you, and it may relate to the last line of ~~question~~ *QUESTIONING is that* Mr. Fleck has provided me with a list of the appointments you had with the ~~Task Force~~ Premier and I just want to run down ~~with~~ them with you. First was April 7, 1971. Did that relate to Task Force Hydro or did it relate to some other topic?

H 1097 - 1 follows

July 9/73  
6 - 6:05 pm  
C.B.

(Mr. Shibley)

~~did that relate to Task Force Hydro or did it relate to some other topic?~~

Mr. Gathercole: April 7, 1971; it probably could

<sup>have</sup> ~~if~~ that was the set-up, yes, I think that was the ~~meeting~~ meeting.

Mr. Walker: Mr. Chairman, I wonder if maybe

he could have the opportunity to review it over the evening, <sup>because</sup> there is a list of several dates.

Mr. Shibley: I think it is a good idea, yes.

I think you <sup>have</sup> ~~have~~ the list, <sup>however</sup> do you not?

Mr. Gathercole: Yes I do.

Mr. Chairman: As I say, I was ~~trying~~ to avoid

Mr. Gathercole coming back right away. Now if you think he should be held over until tomorrow again, Mr. Walker,

Mr. Gathercole: I'd like to get finished up if I could, Mr. Chairman.

Mr. Shibley: What I'd like to know is, there is a series of appointments running April 7, 1971; November 19, 1971; June 1, 1972; ~~then~~ September 12, 1972; September 25, 1972; November 9, 1972; November 14, 1972; which is an inserted date, I have, it is not on this list.

Mr. Gathercole: Yes, ~~the~~ April 7, 1971, was on the composition <sup>of</sup> the Task Force which was announced on April 19. I believe that that was meeting ~~at~~ at which, and I am reconstructing it, that ~~the~~ we had some discussion as to who would represent Hydro on the Task Force.

All right.

Mr. Shibley: Then on November 19, what was that meeting?

Mr. Gathercole: November 19? I think this was one which concerned the use of Hydro rights of way for various purposes, <sup>the</sup> multiple use of Hydro rights of way for corridors and so on.

Mr. Shibley: And then June 1, 1972?



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CA

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Mr. Gathercole: I had another one April 19, 1972

at 5:00 p.m. ~~Lawrence and Auld, Nanticoke~~ this was on the Nanticoke-Pickering grid system. ~~June 1~~ was the one primarily, I think it was, related to the Solandt Commission as to who would be the chairman, who might be selected, or who would be available, and whether <sup>a</sup> decision should be made; And the announcement of that was June 22. On September 12.

~~Fullbrook:~~

Mr. ~~Shibley~~: Excuse me for a moment. You used the word "primarily" there. ~~Shibley~~ I don't want to shorten your examination, but I take it ~~that~~ your evidence is that at no time in any of these meetings did you discuss the head office building?

Mr. Gathercole: That is right. Absolutely.

~~Shibley~~: Go ahead. I'm sorry.

Mr. Shibley: I was going to ask that as a catch-up question at the end.

Mr. Gathercole: Absolutely.

Mr. McCallum: Mr. Chairman, may I just ask a question? If at no time the witness is going to say that he discussed the head office, would the committee then under those circumstances be interested in all the details of each meeting with the Premier? If they are not relevant to these proceedings could that not be the end of it?

Mr. Shibley: Well if there is any reason for not giving it, I just would prefer to go down the line ~~we~~ they way we are.

Mr. McCallum: I want to make it perfectly clear I know of no reason whatsoever why it shouldn't be given. I am just suggesting to you that in the interest of trying to shorten it up, if ~~that~~ no one of them concerns us maybe you would consider making an end of it?

Mr. Chairman: I am just thinking of what evidence may <sup>where</sup> follow ~~if~~ somebody else say, say "Oh yes, that was discussed or something."

Mr. Shibley: September 12, 1972?

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

H-1097-3

Mr. McCallum: Whatever you wish, but you can chase a will of the wisp forever.

Mr. Gathercole: Well, as nearly as I can determine that dealt with some of the Hydro strike matters and the repercussions. I think it was subsequent to that that it got into some areas of an arbitration. I am not sure about that, but I think that is so.

Mr. Shibley: September 25, 1972?

Mr. Gathercole: I think that was ~~an~~ a discussion of ~~the~~ possibility of a smelter being located in Ontario which would be carrying a very heavy electric power load and the rate at which we could supply electrical energy.

Mr. Shibley: November 9, 1972?

Mr. Gathercole: That was the Task Force Hydro. That was the one at which I think <sup>Andrew who</sup> Mr. Frame <sup>represented</sup> was a member of the Task Force himself ~~but~~ ~~represented~~ the OMEA came in later on, and that was discussed, the Task Force Hydro matters. Then November 14 ~~that~~ was definitely, it was I think, only 15 minutes or so, but it was related to the urban rapid transit and the use of Hydro rights of way for.

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that related to the urban rapid transit and the use of Hydro  
rights of way ~~was~~<sup>is</sup> possible use of Hydro rights of way for  
that system.

Mr. Gathercole: I ~~xx~~ have one November 29th, 1.45 p.m., but that really isn't a meeting, <sup>9/</sup>~~isn't~~ <sup>The</sup> signing of the Onakawana agreement; that is, with respect to a joint programme between the province and the <sup>14/</sup>~~Manitoba~~ Company for the drilling and exploration of possibilities, or prospects for using the lignite at Onakawana in an electric power development.

Mr. Gathercole: December 21 was a very brief one.  
I was going away and as I recall it, it was on some aspects of  
Task Force Hydro <sup>and</sup> expansion programme.

Mr. Gathercole: That was on the question of securing uranium supply ~~and assuring adequate uranium supply~~ and it may have touched upon some other things but that was the matter ~~that~~ one of the matters.

I have something from McCarthy and McCarthy, which, although marked Private and ~~CONFIDENTIAL~~ Confidential, I gather I can read to the

July 9, 1973  
6.05-6.10p.m.  
B.A.

(Mr. Chairman)

committee tonight. Is that correct?

Mr. Cowper-Smith: Yes, you can.

Mr. Chairman: If anybody else wants to make any representations they might do so before I leave the room; they might speak to me.

If not, we are adjourned until ~~later~~

Mr. Bullbrook: Before you adjourn, I want to <sup>that</sup> advise you I won't be here tomorrow. You are assured of a quorum, are you?

Mr. Chairman: I believe so, yes.

Mr. W. Hodgson: I won't be here tomorrow.

Mr. Chairman: You will be here, Mr. Allan, Mr. Gaunt? Mr. Glen Hodgson, and Mr. Walker, and ~~Mr~~ <sup>Mr</sup> Newman. I think, yes, we're fine.

So we are adjourned until 10.00 a.m. tomorrow.

The committee adjourned at 6.10 o'clock, p.m.

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## APPEARANCES

Committee members:	J.N. Allan
	J.E. Bullbrook
	I. Deans
	M. Gaunt
	L.C. Henderson
	R.G. Hodgson
	W. Hodgson
	J.P. MacBeth (Chairman)
	W. Newman
	J.A. Renwick
	G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Shibley, QC
	J.P. Bell
Ontario Hydro counsel:	Pierre Genest, QC
	James McCallum, QC
Canada Square Counsel:	Douglas Laidlaw, QC
	Blair Cowper-Smith
Chairman, Ontario Hydro:	G.E. Gathercole
General Manager, Ontario Hydro:	D.J. Gordon

List of exhibits introduced during this sitting appears on last page.

INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Page</u>	<u>Description</u>
179	1079-2	Draft - November 13, 1972 Summary Statement re New Head Office Building
180	1081-1	Chronology of Events and Backup Data Pertinent to the Issuance of the November 15, 1972 report by K.H. Candy

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LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Tuesday, July 10, 1973

Morning session





July 10, 1973  
10.15-10.20 a.m.  
M.F.

LEGISLATURE OF ONTARIO - SELECT COMMITTEE

HYDRO HEADQUARTERS

H - 1099 - 1

Mr. Chairman: Ladies and gentlemen, I ask the

meeting to come to order.

Members of the committee and their counsel, as you know, had dinner last evening; we came to the conclusion that we should proceed with the evidence as best we are able at this time without a break. It may be necessary to have a break somewhere along the line because of counsel's need to prepare for witnesses as they come, depending on how quickly we proceed through the various witnesses we have to call; but that we would continue throughout the summer until the evidence was in, at which time we would decide when we would get together to write the report. But as far as getting the evidence in, we thought we should proceed to do that as quickly as possible even though there will be inconvenience to many. But regardless of how we proceeded, there would be that inconvenience and we thought that we should proceed.

Now on Thursday I made a rather broad invitation ~~and~~ I was just looking back at my words and I am to be criticized for them because I said "If you have any representations of any nature we would be glad to hear them." I received only one written representation from counsel - Mr. Finlayson - and it was marked "private and confidential" as I remarked yesterday afternoon. I read the first two paragraphs to the meeting, ~~and~~ I gave an undertaking it would be read to the meeting, ~~but~~ I read the first two paragraphs to the meeting and it had been reviewed by counsel, ~~and~~ I have since looked it over, although I hadn't read it at that time, but the Clerk had looked it over first, ~~and~~ because it had reference to things that they wished to keep quiet and confidential, in other words that they - I shouldn't say keep quiet, I don't mean that word - ~~they~~ keep confidential is a better way to put it, and didn't want us ~~too~~ to be free to disclose it to the general public, the committee decided that

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(Mr. Chairman)

we should not proceed with the reading of that letter.

So the only ones ~~that~~ <sup>who</sup> know what was in that letter are myself, Mr. Shibley and our clerk. We didn't read that but if there is any -- on the basis that it was not a closed meeting that we had, it was a get-together, not to decide how we would proceed but when we would proceed and it was that that we limited our deliberations to last night, just whether we would proceed now, trying to take into account the various responsibilities that we all ~~had~~ have.

I wanted to make that clear, Mr. Finlayson, that we didn't read your memorandum and if you have anything you want to say to it, whether you want to say it now or later, I think the committee will be prepared to hear it, but they were not prepared to receive a confidential document last evening.

You may not want to speak now. You may want to speak later as we proceed, but in any event I have given you the result of what we decided that we would proceed now.

Mr. Finlayson: Thank you, Mr. Chairman. Because of the decision that you have made to proceed, much of what is in the memorandum is no longer relevant because much of it was directed toward my client's concern that there not be any adjournment in this matter and that the hearings proceed from day to day until they were completed.

I did say that there were some sensitive areas that were of very great concern to my client and you, really, sir, touched on them in your statement when you pointed out in your transcript ~~that~~ I realize that a great many of Hydro's operations are operating with difficulty these days because so much of their talent is tied up here.

Muhh of what I had to say related to the problems that Canada Square are having in ~~the~~ carrying on in the construction of this office building and, without going into any

July 10, 1973  
10 15-10.20 a.m.  
M.F.

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(Mr. Finlayson)

detail, I pointed out that it is embarrassing to Canada Square in finalizing the arrangements for permanent financing of the project. I also pointed out that it is very difficult for Canada Square to supervise the construction of the head office building when its principal officers are engaged almost on a daily basis, either directly or indirectly, with the hearings before this committee, ~~and~~ <sup>Thirdly</sup>, I pointed out it has become increasingly difficult to ~~obtain~~ obtain from the Hydro-Electric Power Commission of Ontario the co-operation which any contractor needs from ~~the~~ owner for the construction of a building of this magnitude.

The time and concentration of the Hydro personnel, <sup>who</sup> would ordinarily be involved on a day-to-day basis with the construction of this project, is likewise taken up by this hearing. ~~and~~ As a result, Canada Square has not been able to obtain from the Hydro-Electric Power Commission of Ontario decisions which are required to be made by Hydro under the terms of the agreement for the construction of the project.

Now that all related to adjournment and since you, sir, or the committee, has decided not to adjourn I don't have to labour that any further, ~~but~~ I did make a suggestion in the memorandum which I am prepared to put forward publicly because in my respectful submission it would alleviate the kind of problem that I have just been discussing about, namely, the problem of attempting to construct an office building in the glare of the publicity of these proceedings, ~~and~~ <sup>If</sup> I may say so, with great respect to the gentlemen of the press present, that on my reading of the transcript some of the reports that have appeared in the press and on the media are wildly distorted, and that has not assisted in any way either.

 Tape H - 1100 follows

July 10, 1973  
10.20-10.25 am  
V.H.

(Mr. Finlayson)

~~the transcript, some of the reports that have appeared in the press and on the media are widely widely distorted and that in not distorted in any way either.~~ That's not of course intended to be criticism of the committee, but <sup>of</sup> the press that are covering it.

Now I point out that a review of the record to date has failed to disclose a ~~sc~~ scintilla of evidence that Canada Square or any of its officers or servants have in any way acted improperly or that Mr. George Gathercole, members of the Hydro Electric Power Commission of Ontario, the chief architect for Ontario Hydro and the ~~the~~ members of the staff of Ontario Hydro or any of them, in any way had their judgement respecting the agreement of the new head office building affected by any consideration other than what was in the best interests of Ontario Hydro and the people of Ontario.

Interjections by hon. members

Mr. Chairman: That, I think, are conclusions that we are not prepared to come to yet at this point before all the evidence is in, and although <sup>those are</sup> ~~both~~ representations again which I suggest you might make, I don't think the committee wants to hear summary of evidence at this point because the evidence is not in. Now that may be your conclusion to date, other people may have different conclusions, but I would rather that we stopped drawing conclusions again at this point. We have been critical of the press for doing that and I think it is premature to try to sum up the evidence at this time.

Mr. Finlayson: Mr. Chairman, I just point out that what I was doing was quoting the question put by counsel to the committee, to the committee and what I am directing the memorandum to is pointing out <sup>that</sup> ~~to~~ date there hasn't been any ~~the~~ evidence before this committee which would justify them in arriving at an affirmative answer.

Interjection by hon. member.

Mr. Deans: That is your conclusion, sir, if I may say ~~so~~ so, and I think it is up to us to draw those kinds of conclusions, not you.



July 10, 1973  
10.20-10.25 am  
V.H.

Mr. Chairman: Mr. Renwick.

Mr. Finlayson: That may be, but I am making a submission as to a suggestion that I am putting forward and it is in my memorandum which was referred to by the Chairman and I don't want there to be any suggestion that this particular suggestion is put forward merely on a confidential basis. I am suggesting ...

Mr. Chairman: That wasn't read last night.

Mr. Finlayson: No. I can appreciate that. I can appreciate that the members of the committee don't realize what's in the memorandum, but I am pointing out that there is this one single issue that has been ...

Mr. Renwick: Mr. Chairman, the decisions on the evidence, when the evidence is in, is going to have to be assessed by the members of the committee. I don't think that it assists us in getting on with our work to have conclusions drawn now with respect to the evidence, which is certainly a matter of argumentation and discussion and far from ...

Mr. Chairman: Yes.

Mr. Finlayson: I don't propose to say another word about the evidence.

Mr. Chairman: All right. If we ~~would~~ proceed along that line further, ~~g~~ then we will all be into the position of trying to come up with what conclusions we have come to to date and I don't think ....

Mr. Finlayson: I am merely trying to point out, Mr. Chairman, that there are six questions, which the counsel has put, and I ~~described~~ <sup>have</sup> described the one, which is one which is critical to my client, and what I am suggesting is that, as I point out in the memo, ~~and~~ the question ~~how~~ <sup>of</sup> how to proceed in the future, it is respectfully suggested that the committee should concentrate on completing at least that portion of the committee's work which relates to any suggestion of improper influence being brought to bear on Hydro officials to award this contract to Canada Square.

July 10, 1973  
10.20-10.25 am  
V.H.

Mr. Chairman: Now, Mr. Fin<sup>la</sup>neyson, I am going to rule definitely here. I don't want any more representations on it at this point. I am critical of myself for perhaps making my invitation so broad earlier. I shouldn't have left it, or made it that broad. As I say, the point I was trying to make was when we proceed, not how we proceed, and we know what problems we have, what the issues are, they were drawn up early in the game and at this point I am not prepared, unless a ~~member~~ member of the committee wants to make some suggestion that we come to some conclusions now and decide what ~~the~~ issues ~~we~~ can dispense with or which ones have conclusive evidence to date, I am not for one prepared to say that we have had conclusive evidence on any of our issues to date, even though members, some people might, or even some members might. Now if a member wants to raise the point then we can discuss it, but unless a member wants to suggest that we should come to certain conclusions now, I am ruling any further representation on it out of order. Mr. Shibley.

Mr. Shibley: I would like to recall Mr. Candy please.

Mr. Candy it is my intention this morning to just elicit from you whatever information or ~~knowledge you have~~ ~~reference in existing sources~~

H-1101 follows





July 10/73  
10.25 to 10.30 am  
fvk

✓ (Mr. Shibley)

~~...knowledge~~ knowledge you have referable to certain specific events, or occasions, that have been referenced by other witnesses since you have given ~~me~~ your earlier testimony.

I want to first deal with the Pickering opening. Were you at that opening?

Mr. Candy: Yes, I was.

Mr. Shibley: You heard the evidence of both Mr. Fleck and Mr. Gathercole that, at that meeting, there was some discussion between the Premier and Mr. Gathercole about the head office. Were you present when that discussion took place?

Mr. Candy: No, I was not.

Mr. Shibley: Did you have any discussion with Mr. Gathercole subsequent to the Pickering opening relative to his earlier discussion with the Premier?

Mr. Candy: No, I did not.

Mr. Shibley: Did you receive any instruction following the Pickering opening from Mr. Gathercole which might reflect the information he had obtained on that occasion?

Mr. Candy: No, I did not.

Mr. Shibley: You met with Mr. Moog on March 30, 1972, according to your diary?

Mr. Candy: Yes.

Mr. Shibley: Did that meeting have anything to do with any instruction received from Mr. Gathercole?

Mr. Candy: Definitely not. I think there is a memorandum of mine indicating what took place at that meeting.

Mr. Shibley: I want, then, next to produce to you a letter dated May 19; I'm sorry, May 16, 1972.

Mr. Chairman: Is this a new ~~exhibit~~ exhibit or an existing one?

Mr. Shibley: No, that's the original copy of the letter from Mr. Gathercole to the Premier with the notations on it.

It's exhibit 178. Now, you will note on that exhibit, Mr. Candy, references made to a trip to Japan ~~...~~

July 10/73  
10.25 to 10.30 am  
fvk

Mr. Candy: Yes.

Mr. Shibley: - with Mr. McKeough and, I might tell you, Mr. Gathercole earlier gave evidence that Mr. Nastich was also on that trip.

Following the trip to Japan in question, did you receive any instructions from Mr. Gathercole, or Mr. Nastich, referable to the head office building?

Mr. Candy: Not that I'm aware of. I knew he was going to Japan but I had no communication after that in connection with it.

Mr. Shibley: Did you know that they were talking with them the April 10 memorandum that you and Mr. Mink had prepared?

Mr. Candy: Yes, I did.

Mr. Shibley: And did you know that it was their intention to, at least, attempt to discuss the head office building with Mr. McKeough on that occasion?

Mr. Candy: The only ~~that~~ thing is that I talked to the chairman before he left and he asked <sup>for</sup> some information about it. Whether he was going to talk to Mr. McKeough, or Mr. Nastich, about it I'm not sure. But I knew they took it with them.

Mr. Shibley: But in any event you say you received no instruction?

Mr. Candy: That is correct.

Mr. Shibley: You'll notice the note on the notation on the letter that's before you and it notes that: "June 9, the Premier spoke with Gathercole a few days ago and confirmed that Government Services ~~is~~ the proper place to start." B

Did you, at any time, receive any instruction from any source that Government Services ~~was~~ the proper place to start?

~~Mr. Candy: No, I did not.~~

~~Mr. Shibley: Did you ever receive any knowledge or information to the effect that .....~~

(Tape H-1102 follows)

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10.30 - 10.35 a.m.  
M.R.

~~(Mr. Candy: No, I did not.)~~  
~~(Mr. Shibley: Did you ever receive any~~  
~~knowledge or information to the effect that the Premier~~  
~~had spoken to Mr. Gathercole within a few days of June 9,~~  
~~referable to the head office building?)~~

Mr. Shibley: Did you ever receive any

knowledge or information to the effect that the Premier had spoken to Mr. Gathercole within a few days of June 9, referable to the head office building?

Mr. Candy: No, I did not.

Mr. Shibley: And in particular did you receive any information that Mr. Gathercole or anyone from Hydro had received advice or instruction that Government Services was the proper place to start?

Mr. Candy: No, I did not.

Mr. Shibley: Can you assist this committee at all, and you were here, I believe, when Mr. Fleck gave his evidence about the circumstances of this notation, as to why this notation came into being?

Mr. Candy: I was here and I heard the evidence, but I'm sorry I can't help you with that.

Mr. Shibley: So you can't - you have no information at all ..

Mr. Candy: I have no information on that at all.

Mr. Shibley: ...that might enlighten us in this respect?

Mr. Candy: No, I'm sorry, I haven't.

Mr. Shibley: When you discussed with Mr. Brooks the OISE building, was it any part of that discussion that Government Services had assisted in the making of that contract?

Mr. Candy: No.

Mr. Shibley: All right. And then, the second part of the notation; "the Premier spoke to Gathercole something - 'policy submission sent to Cabinet'; Mr. Fleck has said that related to the second paragraph of this letter. Are you able to assist us as to whether there was ever any discussion

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M.R.

(Mr. Shibley)

between the Premier and Mr. Gathercole respecting a policy submission which was sent to Cabinet, which in any way related to the head office building?

Mr. Candy: No, I'm afraid I can't. I don't know anything about that.

Mr. Shibley: All right.

Mr. McCallum: Mr. Chairman, yesterday I was asked by Mr. Shibley to make an investigation with respect to that same point and perhaps I can add, for the purposes of your record, that on investigation it was revealed that there was a statement or - I guess you would call it a statement - that went to Cabinet, submission went to Cabinet, it, I was assured, had nothing whatsoever to do with the head office but dealt with the subject referred to in the second paragraph of that letter alone.

Mr. Shibley: So, let's make the record clear, Mr. Candy, you cannot assist us in providing a rationale, if I may use that term, for the notation on this letter?

Mr. Candy: No, I'm sorry, I can't. This inquiry is the first time I've ever seen that.

Mr. Shibley: You never had anything to do with the Ministry of Government Services ...

Mr. Candy: No.

Mr. Shibley: ..referable to this building?

Mr. Candy: No.

Mr. Shibley: At any time?

Mr. Candy: No.

Mr. Shibley: Nor any instruction that you should consider dealing with them?

Mr. Candy: No.

Mr. Shibley: Now, then, mention has been made, Mr. Candy, of the circumstance of a meeting between the Premier and Mr. Gathercole on June 1, 1972.

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(Mr. Shibley)

Do you have any knowledge or information as to the subject of discussion between them on that occasion?

Mr. Candy: No, I do not.

Mr. Shibley: There was nothing said to you by Mr. Gathercole following June 1 which would indicate the content of his discussion with the Premier?

Mr. Candy: No, definitely not.

Mr. Shibley: And in any event, there was nothing said by him referable to anything about proceeding with the head office building and so on?

Mr. Candy: Not that I am aware of.

Mr. Shibley: I would like produced to you Exhibit 70, which is a memorandum from yourself to Mr. Sissons, dated June 6, 1972, Do you recognize the memorandum?

Mr. Candy: Yes.

Mr. Shibley: It's one prepared by yourself...

Mr. Candy: Yes.

Mr. Shibley: And it references a meeting on June 5 with Sissons, Durand, Gordon and Mink.

Mr. Candy: Yes.


Mr. Shibley: Did you receive instructions that such a meeting should be convened?

Mr. Candy: I don't recall, but I imagine I did.

Mr. Shibley: Yes. Well, how was this meeting brought on - on the 5th of June?

Mr. Candy: I have no recollection of that. I was there all right and I - how it was - who called the meeting, of that, I have no recollection.

Mr. Shibley: I see. In the course of that discussion ~~was anything said by any of the persons there present which indicated that~~





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PLG

(Mr. Shibley)

~~Was~~ was anything said by any of the persons there present, which indicated that Hydro had, so to speak, received a green light to go ahead with plans for the new head office building and to get on with the submission to the Commission?

Mr. Candy: No, just that we were to get on with the submission to the Commission. There was no question of any green light from anybody. This was the responsibility that we undertook on our own.

Mr. Shibley: You appreciate, Mr. Candy, that there was a dearth of action on the part of anyone in Hydro, following the memorandum of April 10 prepared by you and Mr. Mink, until this meeting of June 5. That is correct, isn't it?

Mr. Candy: Yes.

Mr. Shibley: I appreciate that earlier reference was made to the circumstance of a threatened strike, I think, at that time. I want to be certain, however, that ~~this~~ ~~the timing of this meeting~~ the timing of this meeting according to your evidence, in no way related to any other action that had been taken in the interim.

Mr. Candy: That is correct. There was no indication of that.

Mr. Shibley: Other than the conversation held with Mr. McKeough and the letter that was sent following on May 16 to the Premier, you know of no other circumstance that brought about the meeting of June 6?

Mr. Candy: That is correct.

Mr. Shibley: I am sorry, June 5. Is that correct?

Mr. Candy: That is correct.

Mr. Shibley: And nothing <sup>was</sup> said at that meeting which would indicate that anything would have happened, let us say, within the immediately preceding ~~and~~ period that would cause you to go forward in the manner in which that memorandum

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(Mr. Shibley)

discloses?

Mr. Candy: No, that is correct.

Mr. Shibley: Now, then, you are familiar with the July 21 press release, which is Exhibit 41, that was sent to the Premier, are you?

Mr. Candy: I'd like to see a copy of it. I am not really sure whether I am or not.

Mr. Shibley: Yes surely, Mr. Candy. Have you reviewed it?

Mr. Candy: Yes, I have.

Mr. Shibley: Did you help prepare this?

Mr. Candy: I don't think I did. There is some information in here of course, which I had before, but I didn't help prepare it.

Mr. Shibley: Now, you knew of it as of the time that it was being prepared?

Mr. Candy: Oh, I must have, yes.

Mr. Shibley: In the interval pending this draft press release, there had been the Commission meetings of June 29, July 12 and July 19.

Mr. Candy: 19th.

Mr. Shibley: 19th. Now, throughout that period of time and up to July 21, 1972, when this was ~~referred~~ <sup>remitted</sup> to Mr. Fleck, do you know of any communication from anyone in government which would indicate to the people within Hydro that they could get on with plans for the head office building?

Mr. Candy: No I do not.

Mr. Shibley: So that so far as you are aware, the only communications with government were those that were referenced by Mr. Gathercole yesterday? Is that correct?

Mr. Candy: When you say referenced by, do you mean <sup>did he say</sup>?

Mr. Shibley: Well, he made reference to an incidental discussion in June or July of 71, another at Pickering in February of 72, the late April or May trip to Japan with Mr. McKeough, the letter to the Premier of May 16; and the press



H 1103-3

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PLG

(Mr. Shibley)

release being the next occasion.

Mr. Candy: That is correct.

Mr. Shibley: So far as you are concerned, there never was to your knowledge or information, any formal submission to anyone within government

Tape H 1104 follows

July 10, 1973  
10.40 - 10.45 a.m.  
M.R.

(Mr. Shibley)

~~So far as you are concerned, there never was,~~  
~~to your knowledge or information, any formal submission~~  
~~to anyone within government,~~ referable to the plans of  
Hydro for this Hydro head office building?

Mr. Candy: As far as I know, the answer is no.

As far as I am concerned, I never heard of any.

Mr. Shibley: And the only communications with  
representatives of government, were those that I have  
outlined to you and as stated by Mr. Gathercole yesterday.  
Is that correct?

Mr. Candy: That is correct.

Mr. Shibley: When the press release, which is  
Exhibit 41, was sent to Mr. Fleck, what was the purpose in  
sending that to him?

Mr. Candy: I'm afraid I can't answer that.

I didn't send it.

Mr. Shibley: Was it not discussed with you at  
the time?

Mr. Candy: When you say discussed, it was probably  
discussed with me as a press release, ~~but not~~ - the information  
that's in it but the purpose of sending it was not discussed  
with me.

Mr. Shibley: What I'm wondering about, Mr. Candy,  
is this: Did you ever have any discussion with Mr. Gathercole  
or anyone else in Hydro to the effect: "well, let's send the  
press release on and see whether we get any negative reaction  
from government"?

Mr. Candy: No, I never did.

Mr. Shibley: You never got any such comment?

Mr. Candy: No.

Mr. Shibley: But this was the first notification  
to government that a decision had been taken, as such, to go  
ahead with the building?

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M.R.

Mr. Candy: I think that's correct, yes.

Mr. Shibley: And that notification took ~~the~~  
if I may so, the informal nature of a press release. Is  
that correct?

Mr. Candy: Yes.

Mr. Shibley: Had there, up to this time, been any  
discussion between yourself and anyone in Hydro, that Hydro  
should not, so to speak, confront the Cabinet with a formal  
submission for formal decision-making?

Mr. Candy: Not that I recall. I don't think  
that was ever discussed with me.

Mr. Shibley: You remember that there is a  
memorandum of March 11 of Mr. Gathercole's - I'm sorry,  
March 9, Exhibit 34; Mr. Gathercole saying that he wanted  
to prepare a submission for the Premier and the Cabinet.

Mr. Candy: Yes.

Mr. Shibley: And I'm wondering why that submission  
was never made?

Mr. Candy: I'm afraid I can't help you there. I  
have no idea.

Mr. Shibley: You were not party to any conversation ~~any~~

Mr. Candy: No.

Mr. Shibley: ~~any~~referable to the circumstance that  
although he had it in mind on March 9 to make a submission,  
in fact, no such submission was ever made by Hydro to the  
Cabinet or <sup>to</sup>the Premier? Is that correct?

Mr. Candy: As far as I know, I was not party to that  
at all.

Mr. Shibley: All right. Mr. Candy, you have also  
heard evidence of Mr. Cronyn that Mr. Smith was complaining to  
him in February of 1972 about the manner in which Hydro was  
dealing with this contract. Did you then, or at any time,  
receive any communication from Mr. Cronyn, or any other source,  
as to the complaints of Ellis-Don?

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M.R.

Mr. Candy: Absolutely not, and that is something I can't understand. He went to everybody but me. I never met Mr. Cronyn in my life until he came to this inquiry. In fact, I haven't met him <sup>yet</sup> ~~him~~ I have seen him in here and I never knew who Mr. Cronyn was.

Mr. Shibley: Yes. And you never received word of the Ellis-Don complaints ~~any~~

Mr. Candy: No, sir. I did not.

Mr. Shibley: ...from any other source?

Mr. Candy: No, sir. I did not. I never heard a word from Ellis-Don from June of 1972 until this report came out in 1973.

Mr. Shibley: So you know nothing of his efforts — I'm talking about Mr. Smith's efforts — with respect to arranging a meeting with the chairman in July?

Mr. Candy: No.

Mr. Shibley: Nor anything respecting his communications with Mr. Seguin. Is that correct?

Mr. Candy: That is correct.

Mr. Shibley: The next communication that you know about, as you say, between June — I'm sorry — subsequent to June of 1972, is when this hearing came up?

Mr. Candy: That is correct.

~~Mr. Shibley: Now, Mr. Candy, Mr.~~

H-1105 to follow

July 10/73  
10.45 to 10.50 am  
fvk

(Mr. Shibley)

~~Mr. Candy: Mr. Smith was a person who was known to me.~~  
~~Mr. Candy: Mr. Smith was a person who was known to me.~~  
Mr. Shibley: Mr. Candy, Mr. Smith was a person —  
up until now it's been the sound and now they're trying to get  
to us with lights.

Mr. Deans: (about lights going off and on) (inaudible).

Mr. Shibley: Oh, I see. You're not going to be outdone!

Mr. Smith was a person well known to you, was he not?

Mr. Candy: Yes.

Mr. Shibley: And friendly?

Mr. Candy: <sup>Just a bit.</sup> I knew him because he <sup>had</sup> built two buildings.  
A

That is the only time I ever met him.

Mr. Shibley: Let me put it this way. Would you be a  
person ~~now~~ that Mr. Smith could have felt free to discuss the  
situation with?

Mr. Candy: Certainly, certainly!

Mr. Shibley: And he never did approach you?

Mr. Candy: No. That's what amazed me. He seemed to go  
to everybody else and never came to me.

Mr. Shibley: All right. I take it from your last series  
of answers, Mr. Candy, that not only did you not know of his  
discussions with others but you had ~~never~~ never had occasion to see  
any correspondence between others referable to the ~~same~~ same  
subject of the Ellis-Don complaint, or efforts to get the contract,  
other than those that have already been tabled as ~~exhibits~~ exhibits?

Mr. Candy: That's correct. I've never seen anything.

Mr. Shibley: The commission met on September 1, 1972  
to discuss Smith's complaints to Seguin. You've heard the  
evidence as to that.

Mr. Candy: Yes.

Mr. Shibley: Following September 1, did you receive word  
from anyone that these ~~complaints~~ complaints had been registered?  
~~and~~ let's stop there for the moment. Did you hear anything  
about it at that time?



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10.45 to 10.50 am  
fvk

Mr. Candy: Sometime later than that I think Mr. Sissons told me that - I did hear that Mr. Seguin had received a complaint from a developer and he never knew who it was, and I never knew who it was and I assumed, at that time, it was some developer in Ottawa. I figured there would be a lot of people who would have liked to have had a chance but didn't get in on it. I just assumed it was some developer down there. ~~was~~ I never heard the name Ellis-Don in connection with it at all. Mr. Sissons didn't have that name either.

Mr. Shibley: On October 2 there is a memorandum from Mr. Gordon, I believe, referencing the Seguin comments and suggesting that a rationale be prepared, <sup>Exhibit</sup> ~~Exhibit~~ 91, dated October 2, and I would ask that that be ~~presented~~ presented to the witness.

You'll notice that you were one of the recipients of that memorandum.

Mr. Candy: Yes.

Mr. Shibley: Were you given more precise information at that time referable to who, it was that ~~was~~ was complaining?

Mr. Candy: No, ~~no~~ I wasn't.

Mr. Shibley: All you knew was that ~~there was~~ someone generally ~~registering~~ was registering a complaint.

Mr. Candy: That's right.

Mr. Shibley: Were you aware, at that time, that the nature of the complaint was that the subject contractor had not been ~~given~~ given an equal opportunity to prepare and present a proposal?

Mr. Candy: No, I wasn't. The way I heard it led me to believe was that it was somebody who hadn't quoted at all, just some other developer.

Mr. Shibley: Were you alert, at this particular time, to the circumstances of your having been in communication with the Canada Square people during 1971 and 1972 discussing with them particulars of the design of the building and the specifications for it?

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10.45 to 10.50 am  
fvk

Mr. Candy: ~~When~~ you say was I alert to it, I'm not quite sure what you mean.

Mr. Shibley: Yes. You appreciate, Mr. Candy, that the subject of the Ellis-Don complaint is that Canada Square had a head start.

Mr. Candy: Yes.

Mr. Shibley: That they had the benefit of discussion with you as to matters of design.

(Tape H 1106 follows)



H 1106-1

July 10/73  
10:50-10:55 a.m.  
PLG

(Mr. Shibley)

~~is that Canada Square had a head start, and they had the~~  
~~benefit of discussion with you as to matters of design. Is~~  
that right?

Mr. Candy: Yes.

Mr. Shibley: That they had the advantage also of knowing from you, earlier, ~~the~~ the specifications if you like, that Hydro had in mind for the transaction, <sup>that's</sup> ~~as~~ basic to the complaint of Ellis-Don. On October 2, did it come home to you then by reason of <sup>the</sup> rationale that was mentioned in this memorandum, that trouble was looming and that that trouble in part emanated from the communications you <sup>had</sup> ~~have~~ had with Canada Square as I have outlined.

Mr. Candy: No I would say not, at that point.

Mr. Shibley: When did you first become concerned about the ~~attendance~~ attendances that you had had in 1971 with Mr. Moor?

Mr. Candy: I guess at this inquiry really.

Mr. Shibley: Not before?

Mr. Candy: No really. I wasn't under the impression before that this was really having any effect. I realize that I dealt with Canada Square and I did criticize their designs, but I think that I have learned a lot from this inquiry, I have got to admit; and I ~~think~~ think that it was at this inquiry where this type of thing sort of ~~came home to me~~ <sup>came home to me</sup> that ~~it~~ <sup>it</sup> may have given them an edge in that area.

Mr. Shibley: In November of 1972 Mr. Candy, what is now Exhibit 180 indicates certain activity within Hydro. Have you got a copy of that Exhibit? I want to refer you first of all to the entry on that ~~entry~~ <sup>chronology</sup> of November 6, the Globe and Mail article on that day. Were you alert to the content of that editorial on the 6th of November?

Mr. Candy: I think I was, yes.

Mr. Shibley: Then the very next day there is an indication of your planning the November 15 report and on this

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PLG

(Mr. Shibley)

day making arrangements with Mr. ~~Mr. Shibley~~ Zabiuk, Manager of Services Department.

Mr. Candy: It is Management Services Division.

Mr. Shibley: I see. Now then, were you instructed to get a review underway on the 7th of November?

Mr. Candy: No I was not.

Mr. Shibley: You did this ~~on~~ <sup>that</sup> your own initiative?

Mr. Candy: I did this on my own initiative when, after the contract had been signed, and I started this as you can see from my other memos that I write to the file, ~~that~~ I started this narrative and I got the idea ~~of~~ myself of putting together those figures to try and produce a document which was for an internal purpose and which I spread around on an internal basis, as you can see from the memorandums I wrote to the various people, and each one being for their information.

Mr. Shibley: Well Mr. ~~Candy~~ Candy I will ask you directly, it is indicated by Mr. Fleck that he has an entry ~~in~~ in his Day-Timer on November 7 of a discussion with Mr. Cronyn, ~~with~~ which took place either on the 7th or it now appears it may have been earlier than the 7th, ~~by~~ by reason of Mr. Cronyn saying he was in Florida on that day. Did you, at about this time, receive any communication, either from Mr. Fleck himself or anyone on his behalf, requiring you or requesting you to get this review underway?

Mr. Candy: No, definitely not. I never even knew Mr. Fleck until the 5th of December. I had never met him.

~~Mr. Shibley: And what neither did you receive any such~~

Tape H 1107 follows



July 10, 1973  
10.55-11.00 am  
V.H.

~~(Mr. Candy)~~

~~never even knew Mr. Black until December 5. I had never met~~

u  
~~X~~ Mr. Shibley: And neither did you receive any such instruction then from anyone within Hydro?

Mr. Candy: No.

Mr. Shibley: So that you say that on November 7, you initiated this, on your own initiative, without prompting from any source?

Mr. Candy: That is correct. We had discussed this; ~~with~~ you know, as time went on, I was accumulating information, I think as you indicated yesterday, ~~and~~ I wanted to put this into a final form as a document so that all our people internally would be apprised of the situation and be familiar with it ~~and~~ the figures I put together were intended to indicate the savings to Hydro by going this route ~~and~~ I had collected information and was still collecting it in connection with the rents we are paying ~~to~~ <sup>for</sup> ~~our~~ <sup>rented</sup> ~~rental~~ properties and so on.

Mr. Shibley: Mr. Candy, there has been evidence now given ~~of~~ <sup>by</sup> rumour in early November, 1972, of a press investigation. Did that rumour reach you at this time?

Mr. Candy: That's awfully hard to say. I have no recollection of that. It could have been and it couldn't, I'm not sure. I guess the first indication that I had of the press was when our public relations people asked me if I would give an interview to Mr. Manthorpe and that was later. That was in December and I ~~think~~

Mr. Shibley: No. I am talking -- let's stay with November for the moment.

Mr. Candy: Yes.

Mr. Shibley: You know that on November 8, the commission met and two memoranda, exhibits 105 and 106, indicate certain matters that were raised by Mr. Nastich of the need for, again, preparing explanations for ~~the~~

Mr. Candy: Yes.

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10.55-11.00 am  
V.H.

Mr. Shibley: Were you aware on the 8th November of the discussions that were taking place within the commission meeting on that day?

Mr. Candy: I would say not. I wasn't at that commission meeting.

Mr. Shibley: And no one told you about what Nastich had been saying at that meeting? If you look at 106 in particular

Mr. Candy: I've seen this, of course, since <sup>during this inquiry</sup> ~~the~~

Mr. Shibley: Yes; no, I mean at the time.

MR. Candy: ~~And~~ But at that time, I have no recollection of knowing what's in this memorandum.

Mr. Shibley: And no advice or instruction to you ~~by~~

Mr. Candy: No, not really, not that I can recall at all. I think he ~~had~~ <sup>(b)</sup> Nastich instructed Peter Lamm to write that draft report which he gave to me.

Mr. Shibley: Yes. So that are you telling the committee, then, even as of November 8 you were not aware of any pending inquiry by the press or in the House as to the circumstances of letting this contract?

Mr. Candy: No. I was not aware of any pending inquiry but I was aware ~~convinced~~ that we should for instance, any time the head office building is mentioned, ~~we've got problems~~ ~~and that's how we've well historically~~

H-1108 follows



July 10, 1973  
11.00 - 11.05 a.m.  
M.R.

(Mr. Candy)

~~you know that we should, for instance, say that the~~  
~~head office building is mentioned, as we got problems and~~  
that's been pretty well historically over the years.

~~But~~ But I was not aware of any specific reason at that point.

Mr. Shibley: ~~The~~ part of Exhibit 180, Mr. Candy, is a document dated November 8, referencing - I think it's the very last document - it's at the back of the exhibit running to three pages --

Mr. Candy: Yes.

Mr. Shibley: November 8, 1972 -

Mr. Candy: Yes.

Mr. Shibley: which seems to be notes of a meeting between yourself and Mr. Van Bruggen. Is that correct?

Mr. Candy: Yes.

Mr. Shibley: And it relates to - it starts off:

"Proposals from several developers, selected best", about the middle of that page.

Mr. Candy: Yes.

Mr. Shibley: I can really skip along to the very last page, which is the significant page. It notes in the middle of that page: "Legislature opens November 21, 1972". Do you see that?

Mr. Candy: Yes.

Mr. Shibley: And "Wanted - Concrete writeup of facts involved in propositions, simple, non-technical - why we need something building - financial aspects, savings, and so on - staff accommodated in new building - ~~which~~ particular developers ~~is~~ selected and so on".

Do you see that?

Mr. Candy: Yes.

Mr. Shibley: Was this the subject of discussion then between you and Van Bruggen on the ~~18th~~ November 8?



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11.00 - 11.05 a.m.  
M.R.

Mr. Candy: You mean the fact that the Legislature is going to open?

Mr. Shibley: Yes.

Mr. Candy: Yes, I would think so. I would think that in getting this thing ready that we had anticipated there would be problems ~~and~~ this information that Van Bruggen has here, the reason all of this is in here, is that I went over the ~~whole, sort of the~~ whole background of this thing with him and he made notes in my office as we discussed it.

The portion that he ~~contributed~~ contributed to that report ~~is~~ are the figures in the last two pages.

Mr. Candy: Mr. Candy, what I want to know is: Was the ~~tenure~~ of your discussion with Van Bruggen on ~~the~~ ~~24th of November~~ a discussion against the background of the pending opening of the Legislature?

Mr. Candy: I would think that certainly could be part of it.

Mr. Shibley: And does ~~this~~ not this last page indicate the kind of information that was considered necessary to prepare to instruct someone referable to the opening of the Legislature?

Mr. Candy: Well, no. ~~What~~ It has certainly to do with the opening of the Legislature, but the reason I put the thing together was to acquaint the people within Hydro, the chairman, the vice-chairman, Mr. Gordon, Mr. Sissons, and so on, of the facts concerning this case in a more concise manner so that if questions did come up, they would be capable of answering these questions on that basis.

Mr. Shibley: ~~Somebody else~~ Your evidence, then, is to the effect that notwithstanding the reference in this document to the opening of the Legislature, that on ~~the~~ ~~24th of November~~ your efforts on that day, had to do with informing people internally with Hydro. Is that right?

Mr. Candy: That is definitely right.

H-1108 - 3

July 10, 1973  
11.00 - 1105 a.m.  
M.R.

( Mr. Shibley: Now then, on ~~the 9th of~~ November,  
Mr. Candy, did you receive any further instructions referable  
to the preparation of a narrative?

Mr. Candy: No, I didn't.

H-1109 to follow





H - 1109 - 1

~~Mr. Shibley: Did you receive any further instructions referable to the preparation of a narrative?~~

~~Mr. Candy: No, I didn't.~~

Mr. Shibley: Did you receive such instructions on the 10th?

Mr. Candy: I never received any instructions. When I had this completed I just sent it out with the memoranda that I sent to the various people, and during that period I never received any instructions.

Mr. Shibley: You have heard Mr. Fleck's testimony that on the 9th of November he made a request of Mr. Gathercole for a narrative of ~~the~~ the circumstances of the letting of the Hydro contract? You heard that testimony?

Mr. Candy: Yes.

Mr. Shibley: Is it your evidence then that, notwithstanding the request from Mr. Fleck to Mr. Gathercole, ~~that~~ you received no instruction from any source that such a narrative be prepared?

Mr. Candy: That is correct.

Mr. Shibley: And no advice from anyone that a narrative had been requested? Is that correct?

Mr. Candy: That is correct.

Mr. Shibley: When did you first become aware that Mr. Fleck had requested a narrative?

Mr. Candy: I never became aware that he had requested it <sup>it</sup> except at this inquiry, that is the only time I heard.

Mr. Shibley: Neither Mr. Gathercole, nor anyone else, told you that a narrative was requested? Is that correct?

Mr. Candy: That is correct.

Mr. Shibley: Was Mr. Gathercole aware of your efforts as at November 9 to compile the report?

Mr. Candy: I don't think so. I think the first he knew that I was doing it was when he received the copy.

Mr. Shibley: Which was when?

Mr. Candy: That was on the 16th.

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11.05-11.10 a.m.  
M.F.

H - 1109 - 2

Mr. Shibley: I see. So are you telling us that, notwithstanding the request from Mr. Fleck to Mr. Gathercole, so far as you are concerned, ~~we~~ took no steps to bring about the preparation of the narrative which had been requested?

Mr. Candy: That is absolutely right.

Mr. Shibley: Notwithstanding that the narrative which was ultimately submitted to the Premier and Mr. Fleck was compiled by you?

Mr. Candy: That is correct.

Mr. Shibley: I am talking now about the November 15 narrative. Is that right?

Mr. Candy: That is right.

Mr. Shibley: Do you know of any reason why Mr. Gathercole would not have told you that Mr. Fleck had made this request?

Mr. Candy: There seems to be some doubt ~~about~~ <sup>as to</sup> whether he received the request or not, But I can't think of any reason, if he had received it, why he wouldn't have told me, but ~~anyway~~

Mr. Shibley: You know of no reason why Mr. Gathercole would not have told you about Mr. Fleck's request?

Mr. Candy: No.

Mr. Shibley: That has never been the subject of discussion between yourself and anyone within ~~any~~

Mr. Candy: No, no.

Mr. Shibley: Now, there is a draft dated November 13, 1972, which is part of this exhibit. Well, it is also part of exhibit 180, is it not? I am sorry, no, it isn't. It is exhibit 179. Was that part of the material employed in the make-up of the November 15 document?

Mr. Candy: I don't really think it was. When I saw it yesterday I could hardly recognize it. I had to find out who had written it. Peter Lamb ~~had~~ <sup>had</sup> written it and apparently sent it to me. I probably had most of mine done before I even got that. I was comparing it with what I had written this morning and I can't see much similarity in the two. Some of the things he has in that

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11.05-11.10 a.m.  
M.F.


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(Mr. Candy)

are things that I have said before.

Mr. Shibley: All right. I won't bother you with that at the moment, Mr. Candy. I would like rather to reference exhibit 114 which is Mr. Gathercole's letter to the Premier enclosing the November 15 report. I will get the clerk to give that to you.

Now you will note in the covering letter, Mr. Candy, there is a figure mentioned which is attributed to you in the second paragraph. ~~"You will see from Mr. Candy's calculations"~~



Tape H - 1110 follows

July 10/73  
11:10-11:15 a.m.  
PLG

(Mr. Shibley)

~~covering letter Mr. Candy, there is a figure mentioned which is attributed to you in the second paragraph.~~ You will see from Mr. Candy's calculations that proceeding in the manner we propose would provide an annual saving to Hydro estimated by Mr. Candy at \$2,460,907,, compared with the situation that would prevail operating in rented and scattered premises." Did you in fact provide that?

Mr. Candy: Yes.

Mr. Shibley: Now how did you get that figure?

Mr. Candy: How did I get it?

Mr. Shibley: Yes. Did you compute it?

Mr. Candy: No. This was what I had Mr. Van Bruggen doing.

Mr. Shibley: Yes. And when did you ask Mr. Van Bruggen to compute it?

Mr. Candy: I called Mr. Zabiuk to see if he had anyone available to assist me on the 7th and Van Bruggen came over at 2 o'clock on the 8th.

Mr. Shibley: Yes. On the 8th.

Mr. Candy: That is the first time I talked to him.

Mr. Shibley: Yes.

Mr. Candy: And then I asked him to get the information with respect to taxation, and he went to see Building and Office Facilities to get the information with respect to the best information with respect to rented facilities <sup>and</sup> what it is costing us now. He was putting this information together ~~and~~ just to carry on a little farther, when I got this prepared, that is when Mr. Toth came to see me on the 15th ~~and he had~~ in his own intuition and we checked this with him ~~he came~~ in to see me and asked that some --he thought that Mr. Auld should be apprised of this situation with some kind of a document ~~and~~ I said ~~xxx~~ that I had been preparing this type of thing and I gave it to him the next day and he took it up to Mr. Auld.

Mr. Shibley: Mr. Toth fulfills what function with Hydro?

Mr. Candy: Well, he is in the Communications Department of the Public Relations Division.

Mr. Shibley: And the Legislature is of particular responsibility to him?

Mr. Candy: That is right. He is sort of liaison back and forth.

Mr. Shibley: So he is alert to what is going on in the House.

Mr. Candy: That's right.

Mr. Shibley: ~~as it~~ affects the affairs of Hydro. Is that correct?

Mr. Candy: That is correct.

Mr. Shibley: And he came to see you, you say, when?

Mr. Candy: He came to see me on the 15th to find out, to see, if I would prepare something. ~~and~~ He was quite surprised to find that I had already been doing it and that is when I put the pressure on Van Bruggen. He worked all that night to get the thing out the next morning and that is why that arithmetic error is made in that thing.

Mr. Shibley: Now, let's talk about the arithmetic error. I gather that the figure of \$2,460,000 is not correct. Is that right?

Mr. Candy: Yes. It is not correct.

Mr. Shibley: All right. And just to make the record clear, Van Bruggen provided the figure to you?

Mr. Candy: Yes.

Mr. Shibley: You provided it to Mr. Gathercole?

Mr. Candy: In this memorandum.

Mr. Shibley: Yes. And Mr. Gathercole provided it to the Premier?

Mr. Candy: That is correct.

Mr. Shibley: And the Premier provided it to the House on November 21st?



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PLG

Mr. Candy: That is correct.

Mr. Shibley: So that if there is error ~~in~~ that figure, that is the chain of communication of the selfsame error. Is that correct?

Mr. Candy: Yes.

Mr. Shibley: And if the Premier was in error in stating that figure as the amount of the annual saving, the responsibility is not his, but rather rests with ~~the~~

Mr. Candy: With me.

Mr. Shibley: Well, with you and Mr. Van Bruggen.

Is that correct?

Mr. Candy: That is correct.

Mr. Shibley: Now, in fairness to Mr. Van Bruggen, I gather from what you said that he compiled that figure in an ~~over~~ overnight effort?

Mr. Candy: That's right, and ~~for~~ which he had no calculator. He was doing it at home.

Mr. Shibley: He was under severe pressure ~~at~~ at that time?

Mr. Candy: ~~And~~ He brought this thing in the next morning, and I had my memorandum ready and he brought this in, ~~and~~ When I talked to him first, he is the kind of a chap that has sort of a computer brain ~~you know~~, and you talk to him and the wheels go around and he comes out with an ~~answer~~ answer, and I thought the ~~last~~ last thing he could be wrong in his arithmetic, so I just didn't even check it. I got it printed up and attached it to these things and sent it out because Steve Toth wanted this thing on the ~~15~~ 16th. Then we subsequently made that correction and tried to get it ~~to~~ to Mr. Auld to give it to the Premier before he talked ~~about it~~ in the House.

Mr. Shibley: Now, when did you get the correction to Mr. Auld? You met with Mr. Auld on the 20th?

Mr. Candy: On the 20th, yes.

~~He said he would have.~~

[Tape 1111 follows]

July 10/73  
11.15 to 11.20 am  
fvk

(Mr. Shibley)

~~You met with Mr. Auld on the 20th November 20?~~

~~Mr. Candy: The twentieth, yes.~~

Mr. Shibley: Did you have the corrected ~~figure~~ figure with you then? Look at the top of page three of your own chronology, Mr. Candy.

It says: "Prior to the opening of the House, Mr. Toth informed Mr. R. Clark of Mr. Auld's office of the arithmetic correction to the report." Do you see that?

Mr. Candy: Yes, I see that. The way I found out about the ~~error~~ error was ~~when~~ when Mr. Sissons called me up and pointed it out to me. As soon as he pointed it out I called Van Bruggen and told him and he came over and we made the change just on the actual document without re-doing the document.

Mr. Shibley: So that when the House opened on November 21, the Premier was in possession of the wrong ~~figure~~ figure →

Mr. Candy: That's right.

Mr. Shibley: → from Mr. Gathercole's letter. Did Mr. Auld have a corrected figure?

Mr. Candy: I guess that's right. When I talked to Mr. Auld on the twentieth, we were still talking about the original figure because the question came up in the House and the Premier had to answer it that day, on the 21, and we had gotten this corrected copy to Mr. Auld hoping he would get it to the Premier before the questions came up.

Mr. Shibley: No, but I thought I overheard<sup>r</sup> your counsel say that ~~xx~~ you did get the corrected ~~xx~~ figure to Mr. Auld before Mr. Auld went into the House on the 21, before the question was raised in the House. Is that not so?

Mr. Candy: Yes, but Mr. Auld →

Mr. Shibley: You're counsel are nodding yes?

Mr. Candy: I'm just trying to relate this. Mr. Auld did not get it to the Premier before the Premier →

Mr. Shibley: I realize that, Mr. Candy.

Mr. Candy: He got it in the House all right.



July 10/73  
11.15 to 11.20 am  
fvk

Mr. Shibley: I'm sure that the dilemma was just the shortness of time in question. So far as we know, the Premier was acting on the information provided by Mr. Gathercole's letter.

Mr. Candy: That's correct.

Mr. Shibley: Do you even know ~~Mr.~~ <sup>Rather</sup> Mr. Auld was in the House when the Premier was making this information available?

Mr. Candy: No, I don't. I just assume he was, but I don't know.

Mr. Shibley: What is the error in question?

Mr. Candy: The error in question is the \$718,000. You see, under revenue, the 384,950 square feet at \$8.00 was in there as \$3,779,000 instead of \$3,079,000, so there was an error of \$718,000 in that place.

Mr. Shibley: I see. So that the saving which you were projecting should have been more like \$1.7 million as opposed to \$2.4 million?

Mr. Candy: At that time, yes. Then subsequently we found some other things which we updated until we got to ~~the~~ December 6. December 6 is the actual corrected one in the end.

Mr. Shibley: Mr. Candy, is that the explanation for the ~~#~~ different appendixes that are found on the memoranda of November 15 when the same memoranda is given later dates but with different appendixes?

Mr. Candy: Yes, it's the same ~~mem~~ memorandum. The only difference in the memorandum is the figure <sup>15.01</sup> ~~was~~ mentioned in the memorandum. That was changed.

~~Mr. Shibley: Yes, the appendix which~~

(Tape H-1112 follows)

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11.20-11.25 am  
V.H.

~~(Mr. Candy)~~

~~Yes, Mr. Auld, the memorandum. The only difference in the  
memorandum is the title, as mentioned in the memorandum,  
that was changed.~~

Mr. Shibley: Yes. The appendix which sets up the calculations.

Mr. Candy: Yes.

Mr. Shibley: Now I want to go back to the overnight effort of Mr. Van Bruggen, what caused the urgency of his efforts on that occasion?

Mr. Candy: Mr. Toth's request to have this for Mr. Auld so he could see it over the weekend.

Mr. Shibley: I see.

Mr. Candy: Otherwise, it would have gone along in the normal way and I would have just distributed it to our people.

Mr. Shibley: And again, Mr. Candy, even as late as November 15 then, so far as you are concerned, nobody had told you of anything about a request from Mr. Fleck for a narrative?

Mr. Candy: No. That's correct.

Mr. Shibley: Did you know that Mr. Fleck and the Premier were being sent the November 15 memorandum?

Mr. Candy: No, I did not. No, I did not.

Mr. Shibley: As far as you were concerned, that memorandum was for internal purposes ~~was~~

Mr. Candy: That is correct.

Mr. Shibley: ~~and~~ and the only minister who had requested information that could be provided by that narrative was Mr. Auld?

Mr. Candy: That is correct.

Mr. Shibley: And at that time, and for some time thereafter, no one alerted you to the circumstance that someone else in government was similarly asking to be informed?

Mr. Candy: That's right. That's absolutely right.

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V.H.

Mr. Shibley: When did you first become aware of the fact that a copy of the memorandum had been sent by Mr. Gathercole to the Premier and to Mr. Fleck?

Mr. Candy: I would say when we discovered the error and <sup>then</sup> I tried to find out where these copies had gone.

Mr. Shibley: Yes?

Mr. Candy: We traced back on the copies and that's when I found out it had gone to the Premier; that's when we had it delivered up to Mr. Auld.

Mr. Shibley: Did you make any enquiries or were you told anything about why a copy had gone to the Premier and to Mr. Fleck?

Mr. Candy: No. No.

Mr. Shibley: No discussion at all?

Mr. Candy: No.

Mr. Shibley: Nor did you overhear any discussion?

Mr. Candy: No.

Mr. Shibley: So you can't assist this committee in that area?

Mr. Candy: I'm afraid not.

Mr. Shibley: All right.

Mr. W. Newman: Mr. Chairman, just one question in that area.

Mr. Chairman: Mr. Newman.

Mr. W. Newman: If Mr. Fleck did request Mr. Gathercole for a narrative, would he normally go to you and ask you to prepare it, Mr. Gathercole that is?

Mr. Candy: I think he probably would, yes. He might have gone to Mr. Sissons but I think he probably would have come to me.

Mr. McCallum: Mr. Chairman <sup>yes</sup>

Mr. Chairman: Mr. McCallum.

Mr. McCallum: <sup>yes</sup> there is one matter that has been referred to this morning that wasn't cleared up yesterday and I think I undertook to give this information to your committee.

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V.H.

(Mr. McCallum)

It has to do with Mr. Auld's office and whether Mr. Auld's office requested from Mr. Toth the memorandum about which we have been speaking or whether it was Mr. Toth ~~and~~ anticipating the possibility and trying to be helpful, that provoked Mr. Toth into coming down and speaking to Mr. Candy.

I am instructed that it is the latter. It was not a question of Mr. Auld or anyone in Mr. Auld's office saying to Mr. Toth, please get this for me, but on the other hand it was Mr. Toth anticipating that this is the sort of thing he would want to have for the ~~new~~ opening of the House.

Mr. Chairman: Thank you.

Mr. McCallum: I think I left that open yesterday.

Mr. Shibley: Mr. Chairman, Mr. McCallum has kindly compiled a brief of the November 15 memorandum as it was amended by the November 29 changes in the appendix and it was further amended by the December 6 memorandum appendix.

~~It would be a good idea to have~~ -- I hate to inundate the committee with a further volume as an exhibit but if those variables in the appendix become important I would think you can be provided with these later. At the moment, I just tell you that Hydro very helpfully have submitted a brief setting out the three documents with the changes not in the memorandum itself but rather in the appendix itself. Now if you want that it can be provided to the committee.

Mr. Chairman: You're suggesting it's a fair size?

Mr. Shibley: It's this memorandum. There's another brief that has been prepared and as I say, do the committee members want this? Have you duplicated this, Mr. McCallum?

Mr. McCallum: Not duplicated in a way that we would be able to hand it out this morning to all the members of the committee.

Mr. Shibley: Now if you want it, I am sure they would be prepared to do it.

Mr. Chairman: I thought <sup>from what</sup> you were saying that it possibly ~~you~~ had them here to go.

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V.H.

Mr. Shibley: No. No.

Mr. Chairman: I think the committee has sufficient evidence at the moment. ~~~~~

Mr. Shibley: That's my own feeling on the matter. I don't think a great deal turns on it, except that I wanted to be careful in covering the fact that there was an error in the information provided by Hydro to the Premier and it was because of that error that he, in turn, made the error in the information he provided to the House. That is correct, Mr. Candy?

Mr. Candy: That is correct for which I was quite embarrassed.

Mr. Shibley: Prior to the commencement of the hearing of this committee, was the circumstance surrounding the creation of the November 15 memorandum ever the subject of discussion between yourself and Mr. Gathercole or Mr. Fleck?

Mr. Candy: Not with respect to the formulation of this committee.

~~Mr. Shibley: I am not sure if I have mentioned this or not.~~

H-1113 follows





July 10, 1973  
11.25 - 11.30 a.m.  
M.R.

~~CONFIDENTIAL~~  
~~CONFIDENTIAL~~  
~~CONFIDENTIAL~~

Mr. Shibley: I see. Prior to the convening of this committee, was the circumstance surrounding the creation of the November 15 memorandum over the subject of discussion between yourself and Mr. Gathercole or yourself and Mr. Fleck?

Mr. Candy: Not the circumstances, I had discussed the memorandum with Mr. Fleck on the 5th of December, as I recall it.

Mr. Shibley: All right. Well, let's go to the 5th of December then. That was the first of your meetings with Mr. Fleck?

Mr. Candy: Yes, the first time I ever met him.

Mr. Shibley: And you discussed the memorandum, you say, at that time? Is that correct?

Mr. Candy: Yes, I think so. Mr. ~~Dean~~ Dean was with me at that time.

Mr. Shibley: Yes. Was there any discussion or - I'm sorry - was there anything said to you by Mr. Fleck at that time, respecting the manner in which he had already received a copy of this document?

Mr. Candy: No.

Mr. Shibley: So that never formed part of it?

Mr. Candy: No.

Mr. Shibley: Your whole ~~whole~~ attention was on its content? Is that correct?

Mr. Candy: That is correct.

Mr. Shibley: Just before we continue into December, Mr. Candy, throughout November of 1972 was anything brought to your attention, was anything said to you or any communication of any kind made to you, which indicated that there was a possible inquiry by the press as to the circumstances of the letting of this contract?

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M.R.

Mr. Candy: Not that I'm aware of. As I say, the first time that I was aware of this at all was when Mr. Manthorpe wanted to talk to me.

Mr. Shibley: That would be in ... *was it December?*

Mr. Candy: December.

Mr. Shibley: I'm sorry, I shouldn't have led you on. When did Mr. Manthorpe first communicate with you?

Mr. Candy: The way this came about, our Mr. O'Neil, I think it was in Public Relations, told me that they had - he gave me two names - Duffy and Manthorpe -

Mr. Shibley: Yes?

Mr. Candy: And he said that they wanted to have an interview and he asked me if I would interview Mr. Manthorpe and I said that I would if somebody from Public ~~Re~~ Relations were there at the same time. But this was when the questions had been brought up in the House and we agreed that we couldn't interview anybody from the press until these questions had been tabled in the House.

Mr. Shibley: Well, Mr. Candy, you gave Mr. Manthorpe an appointment to meet with him on the 6th of December.

Mr. Candy: That is correct.

Mr. Shibley: And, I gather you gave him that appointment sometime in advance of the 6th.  
Is that right?

Mr. Candy: Yes, I would think when the ~~the~~ Public Relations people - just trying to look up these dates here, the day before I think is when the - you'll see that phone call to Jim Fleck at 8:15 in the morning on the 7th.

Mr. Shibley: Yes?

Mr. Candy: That is when I was checking to see ~~whether~~ whether I - I was under the impression that the questions were going to be tabled in the House right away and so I



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(Mr. Candy)

~~that is when I was checking to see whether I was under the impression that the questions were going to be tabled in the House night was and~~ called him at 8.15 to find out if they were tabled or not, and when I found out they weren't tabled, then I had to cancel that appointment, and as you go through you will see several cancellations of appointments with Mr. Manthorpe. He was in the press gallery; he would phone me and leave a number and I would phone him back, and we had several telephone communications during that time. Mr. Fleck also agreed ~~that I should not~~ in fact, he told me that I should not talk to Mr. Manthorpe until they had been tabled in the House.

Mr. Shibley: Mr. Candy, I think your chronology is incorrect, because your appointment, your first appointment, and I don't say that you met with him that day, but the day for which you had an appointment with Mr. Manthorpe is indicated in your diary as being December 6th, whereas your conversation with Mr. Fleck was on December 7th.

Mr. Candy: Yes, but isn't there ~~an~~ December 6th, is that the one that says "Duffy and Manthorpe"?

Mr. Shibley: That is correct.

Mr. Candy: Yes, well, that is the information I got from ~~the~~ public relations people who asked me to contact them, or said they were - I forget whether I was to contact them or they were calling me, but I never met him at that time.

Mr. Shibley: I realize you didn't meet him.

Mr. Candy: I only met him the one time and that was on the 15th.

Mr. Shibley: Yes, I know that. Mr. Candy, I know you met him on the 15th. What I want to go back on now is, Manthorpe called you for an appointment and you gave him an appointment on the 6th of December, which you cancelled. Is that correct?

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Mr. Candy: Is it on the 6th there or the 7th?

Mr. Shibley: Well you have an entry ~~there~~ at 2 o'clock: "Manthorpe, Duffy, Globe and Mail".

Mr. Candy: Yes, well, that was the day that the public relations people told me that he wanted to have an interview.

Mr. Shibley: It is not significant that it is opposite the time 2 o'clock, in the sense that you had intended a meeting on that day on the 6th?

Mr. Candy: On the 7th, isn't there a meeting on the 7th?

Mr. Shibley: No, the only entry on the 7th - oh, I am sorry, yes, there is another one on the 7th at 10 o'clock, "Manthorpe, Globe and Mail", and then you have got it marked "cancelled", and another one on the 8th, "Manthorpe, Globe and Mail" and it is struck. Then another one on the 11th at 2 o'clock, "Manthorpe, Globe and Mail", no 'something', I will let him know".

Mr. Candy: I think I said "not final or something".

Mr. Shibley: "Not final" right. Then another on the 13th to call Jim Fleck; another on the 15th, Mr. Manthorpe in this office. That is the sequence.

Mr. Candy: That is right; that is the day we met.

Mr. Shibley: But what I am most interested in at the moment is you appear to have given Mr. Manthorpe an appointment for the 6th but cancelled it, is that not so?

Mr. Candy: No, I don't think that is so, I think that is a call either to Mr. Manthorpe or he called me, or that is when the public relations people gave me the information and I put it in the diary to call him and I guess I called him then to make an appointment for the 7th.

Mr. Shibley: Well, Mr. Candy, normally when you enter things in your diary just as a reminder and so on, you put it at the very beginning of the day, do you not? That has been your practice I see, you have notes to call Fleck at 8.15 or start excavating for the building, etc. It is always the first entry.

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M.F.

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(Mr. Shibley)

This is an entry made at 2 o'clock and that is why I took it to be an appointment that you had given but cancelled for that day.

Mr. Candy: No, I am sure that is not an appointment, I think that is ~~-----~~

Mr. Shibley: All right. You say the appointment you gave him was for the 7th? And that was ~~was~~ cancelled?

Mr. Candy: That was cancelled; and that is when I called Fleck at 8.15 in the morning to find out if it was going to be tabled. ~~and~~ When I found out it wasn't then I had to cancel that.

Mr. Shibley: All right. When did you give Manthorpe the appointment for December 7th? How long before the 7th did you make arrangements to meet him on the 7th?

Mr. Candy: I would think the day before.

Mr. Shibley: The day before?

Mr. Candy: Yes, the 6th.

Mr. Shibley: That is your best recollection?

Mr. Candy: That is my best recollection unless there is anything else in there. I haven't that portion of the diary here; this was the part that they didn't realize that Manthorpe was a ~~man~~ What have I got on the bin, on that one?

Tape H - 1115 follows

July 10/73  
11:35-11:40 am  
PLG~~(Mr. Candy)~~~~It is on that one.~~

Mr. Shibley: Well that is where you have the entry;  
"Manthorpe, Duffy, Globe and Mail."  
You also, incidentally Mr. Candy, have an entry on the 5th,  
"Call Steve Toth re meeting."

Mr. Candy: Yes. That is the meeting with Jim  
Fleck.

Mr. Shibley: I see. Not the meeting with Manthorpe?

Mr. Candy: Oh no. No.

Mr. Shibley: So that to your best recollection the  
appointment that you gave him for the 7th was made when?

Mr. Candy: It is made I think on the day where I  
had Duffy and Manthorpe.

Mr. Shibley: And not earlier?

Mr. Candy: No. No.

Mr. Shibley: Now then Mr. Candy, you had a meeting  
you said with ~~Mr.~~

Mr. W. Newman: Excuse me Mr. Chairman, has  
Mr. Candy got a copy of this?

Mr. Chairman: Well, *that's what I was just wondering.*  
~~that's what I was just wondering.~~  
You don't have your diary with you Mr. Candy?

Mr. Candy: No. As I say, I have got this, but *these* ~~are~~

Mr. Shibley: No, he has a copy.

Mr. Candy: ~~the~~ entries of Manthorpe were not in the  
original copy of this because the people who took it off didn't  
realize that that was pertinent to this whole thing.

Mr. Shibley: You are working from the original  
excerpts provided to me?

Mr. Candy: ~~Yes~~ That is right.

Mr. Shibley: I am working with supplementary excerpts.  
Have you not been given the same things by your counsel as  
he has given to me?

Mr. Candy: No.

Mr. Shibley: Well if your are prejudiced, it is his  
responsibility not mine.

July 10/73  
11:35-11:40 a.m.  
PLG

Mr. Chairman: Well, I ~~suppose~~ <sup>suppose</sup> we can let Mr. Candy see these if it would help him.

Mr. Candy: Well I am fairly ~~fair~~

Mr. Shibley: I think we might break, Mr. ~~Chairman~~ Chairman, because I think I'd like to have the witness at least have these documents available to him.

Mr. ~~Chairman~~ Chairman: Well we will ask Mr. Moore to make a copy of them. ~~XXXXXXXXXX~~

Mr. Shibley: Well no, his own counsel has them.

Mr. Chairman: Oh, his own counsel's got them?  
All right. Well then, we will adjourn until quarter to.

Tape H 1116 follows



July 10, 1973  
11.55-12.00 noon  
V.H.

Mr. Chairman: Ladies and gentlemen, I call the meeting back to order.

Mr. Shibley: Mr. Candy, we had reached the point of your discussions with Mr. Fleck in early December, and you have told us I gather that you had repeated communication with him as to the timing of the tabling of the answers and that by reason of the delay in that respect you in turn were putting off your meeting with Mr. Manthorpe. Is that correct?

Mr. Candy: That is correct.

Mr. Shibley: So that although you had a meeting scheduled for the 7th and it appears you may also have had a similar meeting scheduled for the 8th ~~per~~

Mr. Candy: That is correct.

Mr. Shibley: ~~per~~ both those were put off at the instance <sup>of well</sup> I should say <sup>as</sup> the result of your discussions with Mr. Fleck - is that right?

Mr. Candy: Yes. Yes.

Mr. Shibley: YOU had another meeting scheduled for the 11th and that was put off?

Mr. Candy: Yes.

Mr. Shibley: And you <sup>as</sup> actually met with him only, at least not before the 15th?

Mr. Candy: That's correct.

Mr. Shibley: And that would be on the day following the tabling of the answers ~~per~~

Mr. Candy: Yes.

Mr. Shibley: ~~per~~ <sup>to</sup> the questions by Mr. R.F. Nixon?

Mr. Candy: Yes.

Mr. Shibley: Now then, dealing first with your first conversation with Mr. Fleck, when did that take place?

Mr. Candy: December 5.

Mr. Shibley: Was that by phone or personal?

Mr. Candy: Personal.

Mr. Shibley: Had you previous telephone communication with him?

Mr. Candy: No. No. I didn't know him at all and that was the purpose of Mr. Toth being there to introduce me to Mr. Fleck. I didn't even know where he was.

Mr. Shibley: What was the subject of the discussion between you and Mr. Fleck on the 5th December?

Mr. Candy: The major topic was the answers to the questions.

Mr. Shibley: You'd already provided a draft for December 4th?

Mr. Candy: Well he had it.

Mr. Shibley: Yes. And you went over those answers with ~~him~~ him?

Mr. Candy: Yes.

Mr. Shibley: Now aside from discussing the answers themselves, was any other topic discussed between you?

Mr. Candy: No. No.

Mr. Shibley: Among the questions that were asked in the House by Mr. R.F. Nixon, I might say they are part of exhibit #2, are the following questions, I will skip certain of them, really it is the second one I want to deal with:

"No. 2 - What companies of which Mr. G.W. Moog is an officer or director, lease building space to the Government or its agencies? Has Mr. Moog, any of the above companies of which he is an officer or director, or the company building the new Ontario Hydro building, contributed funds to the Progressive Conservative Party of Ontario and if so, how much?"

Were those questions <sup>taken</sup> ~~taken~~ up between yourself and Mr. Fleck?

Mr. Candy: Would you mind reading the first question again, I am just trying to find it. What page was that on?

Mr. Shibley: You will notice on the proposed answers, the question and the answer is set out?

Mr. Candy: Yes.

Mr. Shibley: I am looking at the December 4 document that was compiled. Have you got the same document? Exhibit 120?



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Mr. Candy: This is December 13 that I have got here.

Mr. Shibley: Well perhaps the witness could be given exhibit 120, Mr. Moore.

Mr. Candy: Yes, I have it now.

Mr. Shibley: I would like you to ~~look~~ look at page 3 at the bottom of that page.

"Question: What are the names of the other tenderers and what amounts did they tender?"

You will notice at the bottom:

"Answer: Proposals were requested from five developers based on a brief outline of our requirements and only four submitted proposals, each of whom was given to understand that in the event their proposal was interesting, further discussions would take place."

Did you effect that communication to Mr. Fleck and did you discuss it with him on the ~~same~~ occasion of your meeting on the 5th?

Mr. Candy: Well I can only say we went ~~on~~ over the questions.

Mr. Shibley: Yes?

Mr. Candy: Mr. Fleck was very careful to ensure that whatever we gave him was from Hydro and not from him.

Mr. Shibley: Yes.

Mr. Candy: He kept saying "Well, you know, this is your document."

Mr. Shibley: Now, Mr. Candy, just on that score, do I take it that from your conversation with Mr. Fleck, the only information that he was working to was information provided by Hydro, which included at this point the November 15 memorandum and the suggested answers of December 4?

Mr. Candy: That's correct.

Mr. Shibley: And I put it to you that the content of both the memorandum of November 15

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~~of the~~ and the answers suggested of December 4,  
imply that Hydro had made a true competition for the  
project among four developers?

Mr. Candy: Yes.

Mr. Shibley: Did Mr. Fleck simply accept that  
proposition in his discussion with you or did he pursue it  
with you?

Mr. Candy: No, he didn't pursue it at all.

Mr. Shibley: So he relied upon your representation -  
when I say yours I mean the representations of Hydro in the  
content of the November 15 memo and the proposed answers of  
December 4 - that, in fact, a competition had been effected?

Mr. Candy: Yes, that is right.

Mr. Shibley: Did he discuss with you the particular  
circumstance of Canada Square being the developer which was  
selected against the background of Mr. Moog being a friend of  
Premier Davis?

Mr. Candy: No, he did not.

Mr. Shibley: There was no content ~~see~~

Mr. Candy: No, sir.

Mr. Shibley: ...within your discussion with him ~~see~~

Mr. Candy: No.

Mr. Shibley: ~~see~~ on any of these occasions ~~see~~

Mr. Candy: No.

Mr. Shibley: ~~see~~ referable to that topic?

Mr. Candy: That is correct.

Mr. Shibley: He never said to you that it was  
particularly important to review the competition, if you like,  
in order to ensure that the friendship between the Premier and  
Mr. Moog not be translated into a reason why Canada Square got  
the contract?

Mr. Candy: No, he never did.

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Mr. Shibley: That no discussion of that ~~and~~

Mr. Candy: No. No discussion of that.

Mr. Shibley: On the other hand, Mr. Candy, I take it he nevertheless examined very carefully into the comparative submissions of the four developers?

Mr. Candy: Yes, ~~he~~ I think that I had them - I don't know whether I had them with me at that point ~~and~~

Mr. Shibley: You're working to the November 15 memorandum ~~and~~

Mr. Candy: Yes.

Mr. Shibley: ~~and - I'm sorry~~ December 4th answers, ~~and~~ so I take it that Mr. Fleck reviewed the Ellis-Don situation with you at that time?

Mr. Candy: No, he did not. There was no mention of Ellis-Don ~~and~~

Mr. Shibley: All right.

Mr. Candy: ~~any~~ any more than any ~~and~~

Mr. Shibley: Did you tell him that the \$30 per square foot figure upon which the November 15 memorandum outlines the Ellis-Don proposal was a figure solicited by Hydro, whereas the original submission by Ellis-Don had been based upon a \$26 per square foot building? Did you tell him that?

Mr. Candy: I really can't recall. I may have - I don't recall discussing that on any breakdown.

Mr. Shibley: ~~He was left~~ Mr. Fleck was left to rely upon the indication in the November 15 memorandum that Ellis-Don's proposal was based on a submission of \$30 per square foot. Isn't that so?

Mr. Candy: Yes, I would say so.

Mr. Shibley: And he was not alerted until later that Ellis-Don had made submissions on lower figures per square foot. That is correct, isn't it?

Mr. Candy: I think that is correct, yes.

Mr. Shibley: And, in fact, later when it came to his attention, did he make any comment to you as to why ~~a~~ the other developers had not been similarly asked to quote on a lower

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cost per square foot building?

Mr. Candy: No, because it was never in my mind that we would ask anyone to quote on a lower cost.

Mr. Shibley: ~~Remember when~~ I gather that from Mr. Fleck's evidence that he also made an analysis of the Horizon proposal and it was he who first recognized that the maintenance factor in the Horizon proposal was based upon a 1971 base year?

Mr. Candy: No, that isn't quite true, and actually that didn't come up at this meeting. I heard Mr. Fleck say that and I talked to him afterwards and that was later.

Mr. Shibley: Yes.

Mr. Candy: That.

H-1118 to follow



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(Mr. Candy)

~~... No, that isn't quite true and actually, that didn't~~  
~~come up at this meeting. I heard Mr. Fleck say that and I talked~~  
~~to him afterwards and that was later. That was not at this~~  
meeting. I had noticed ~~that~~ that myself previously in October,  
I think, but we didn't change the figures. No, we stayed with  
that we had because there was some doubt as to whether it was  
legitimate or not at that point. I did mention <sup>it</sup> to Mr. Fleck  
afterwards and he said he could be confused. That was not  
brought up at this meeting. It was at a later meeting at which  
we discussed it and, I think, information which was not released  
because that was the time this inquiry was coming up.

Mr. Shibley: So you say that you had already spotted  
this failure on the part of Hydro to ~~not~~ recognize that as  
a factor, but he also had spotted it?

Mr. Candy: That's right. I think I pointed that out  
at that time.

Mr. Shibley: You ~~was~~ think you pointed it out to him?

Mr. Candy: I think I did.

Mr. Shibley: Now, in your answer, on page three again,  
the answer says that you ~~have~~ told the developers that if their  
proposals were interesting further discussion would take place.

Mr. Candy: I think the way I put it to the developers  
was that based on their proposals we would then decide who we  
were going to negotiate with further.

Mr. Shibley: Mr. Candy, the proposals were in as at  
January 24, 1972, and on February 1, 1972, you did a memorandum  
saying ~~that~~ we should go with Canada Square.

Mr. Candy: Not really.

Mr. Shibley: Let's not get into the memorandum unless  
we have to, but isn't ~~that~~ that the essence of <sup>your</sup> February 1  
memorandum?

Mr. Candy: As I said before, I was certainly leaning  
that way at that point.

Mr. Shibley: And, in fact, you never had further



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(Mr. Shibley)

discussions with any other developer?

Mr. Candy: Oh, yes.

Mr. Shibley: Did you follow through with them?

Mr. Candy: We had discussions with ~~Maxxi~~ Horizon and  
Y and R on ~~the~~ April 7.

Mr. Shibley: I mean discussions in the sense of following through on their proposals in the same way as you followed through with Canada Square?

Mr. Candy: Not to that extent, but I think that when you find when you have our financial people up here, I wouldn't want you to draw any conclusions yet until you find out the amount of work that was done in this area.

Mr. Shibley: Mr. Candy, I would just remind you that you did an April 10 memorandum with Mr. Mink which was pretty definitive of your recommendations. Is that correct?

Mr. Candy: Yes, that's when we got down to Horizon or Canada Square.

Mr. Shibley: And I put it to you that whatever discussions you might have had with Volles And Rotenberg or Ellis-Don in April, or later, really didn't amount to a follow-through of the type we're talking about?

Mr. Candy: No, I guess not the type you're talking about. We felt that we had gotten enough information.

Mr. Shibley: In fact, Mr. Candy, you remember that Mr. Smith's complaint in February was that he couldn't get a follow-through meeting with Mr. Gathercole?

Mr. Candy: Yes.

Mr. Shibley: So that, again, when you made these representations to Mr. Flesk, and actually to the Premier, you didn't know he was getting the November 15 memorandum, but those representations in that respect were not completely accurate?

Mr. Candy: Not necessarily. There ~~was~~ was no indication in here, there was no intent on anybody's part to deceive

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anybody in this thing. This is what we felt, at that time, that we had gotten sufficient information on the basis of the figures that we got; that our ~~the~~ financial people, any more information they wanted, we got from these people and we felt that we did ~~have~~ ~~had~~ enough information to make an analysis at that ~~time~~ point. Now, there are other over-riding problems; two of them, of course, being with Ellis-Don not having management experience <sup>and</sup> Y and R not being agreeable to a commercial area.

Mr. Shibley: Mr. Candy, I don't want to go back into all that. Really, what I want to know now, and I'm trying to establish, the information available to government even as late as early December <sup>I'm sorry --</sup> as mid-November of 1972 and early December was ~~as~~ that as provided in the way you've indicated by the memo of November 15 and the answers of December 4. I'm putting it to you that that information tended to indicate to Mr. Fleck, and ~~to~~ to the Premier, that Hydro had effected a fair competition and had done the follow-up with developers, and so forth, that would be normal and usual in this type transaction?

Mr. Candy: Yes, I'd have to agree with that.

~~Mr. Shibley: and whatever the questions~~

1119



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~~\_\_\_\_\_~~  
Mr. Shibley: And whatever conclusions this committee comes to in that respect, which might be different from that, as far as Mr. Fleck knew and as far as the Premier knew, they were made to rely upon the representations that I have indicated to you as set ~~out~~ out in the November 15 and December 4 memo. Is that correct?

Mr. Candy: That is correct.

Mr. Shibley: When, to your knowledge, did Mr. Fleck become aware of the circumstances of your having these meetings throughout 1971 with Mr. Moog's organization?

Mr. Candy: I don't really know that he ever knew.

Mr. Shibley: I see. You didn't volunteer that information to him at any time during the course of your discussions with him?

Mr. Candy: No, not that I recall, no.

Mr. Shibley: You appreciated ~~the~~ by the time of your discussions with Mr. Fleck that this was a serious political question, the letting of this contract to Mr. Moog? Did you appreciate that?

Mr. Candy: Yes.

Mr. Shibley: And that this was an important political question because of the friendship between Mr. Moog and the Premier? Did you appreciate that?

Mr. Candy: I am not so sure of that. I think that I - well I guess at that point this seemed to be coming out in the press certainly, and ~~\*\*\*\*\*~~

Mr. Shibley: And was it not of concern to you on that account that you had dealt so closely with Canada Square throughout 1971 in the way which the evidence reflects, such that you would have mentioned it to Mr. Fleck?

Mr. Candy: I don't think so because I didn't, as I have said in ~~my~~ my evidence before, you know looking back in retrospect in what has come out in this inquiry, that certainly seems to be the case but I didn't ~~and~~ <sup>really</sup> feel at that time quite honestly that

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(Mr. Candy)

that was the actual case at that time that we had gone through.

Mr. Shibley: So that so far as your thinking was concerned, you hadn't done anything wrong?

Mr. Candy: No. I didn't think that I did.

Mr. Shibley: And you didn't tell Mr. Fleck anything about that?

Mr. Candy: No.

Mr. Shibley: Did he mention to you at the time of your meeting that he knew that Ellis-Don were unhappy?

Mr. Candy: No, he never mentioned Ellis-Don to me at all.

Mr. Shibley: I see.

Mr. Candy: Everybody seemed to be mentioning Ellis-Don to everybody but me for some reason.

Mr. Shibley: So that at none of these meetings ~~=====~~

Mr. Candy: None of them. I never knew a thing about Ellis-Don's complaint until this article in the paper came out in '73.

Mr. Shibley: And in any event, Mr. Candy, I want it perfectly clear now, you, because you say you didn't consider it important or necessary or relevant, never told Mr. Fleck about all of these attendances that you had with Canada Square throughout 1971?

Mr. Candy: That is correct.

Mr. Shibley: And prior to your having had any dealings with the other developers?

Mr. Candy: That is correct.

Mr. Shibley: And neither did you tell him or in any way communicate to the Premier anything about your actions following January 24th when the submissions were in, other than what is in the memorandum of November 15 and the answers?

Mr. Candy: <sup>That</sup> ~~is~~ is correct.

Mr. Shibley: So that whatever they believed is ~~the~~ <sup>a</sup>



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(Mr. Shibley)

reflection of what you told them in those documents?

Mr. Candy: That is correct.

Mr. Shibley: Now then was the subject of the pro-rating on a \$34 per square foot basis discussed with Mr. Fleck?

Mr. Candy: I think it was. I think that is why I had John Dean along, to talk about that.

Mr. Shibley: And did he raise questions about the validity of that process?

Mr. Candy: No.

Mr. Shibley: I am talking about Mr. Fleck.

Mr. Candy: Yes, I know what you mean. No, he didn't raise any questions that I can recall.

Mr. Shibley: Was there no discussion about it?

Mr. Candy: I think there was some discussion about it, but I don't recall him - he just sort of took our word for it.

~~and I think that's all~~

Tape H - 1120 follows

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PLG

(Mr. Candy)

~~John Dean~~ John Dean was indicating some ~~figures~~ figures to him.

Mr. Shibley: Did he not run calculations on the basis of pro-rating on, I think, it was \$28 and \$30 per square foot?

Mr. Candy: Did he not run any?

Mr. Shibley: Yes.

Mr. Candy: Not that I recall. I know that he was talking to John Dean. Between the two of them I think,

Mr. Shibley: Did he discuss with you the interpretation to be placed upon the words, "Appraised value of the building", as it related to an adjustment of rental if the ~~appraised~~ appraised value was not as high as \$34 per square foot?

Mr. Candy: I don't think so, At that meeting, I am not sure if Mr. Fleck,

Mr. Shibley: At any of these meetings.

Mr. Candy: .. I don't.

Mr. Shibley: Did he discuss it with you at any of these meetings?

Mr. Candy: I don't think so.

Mr. Shibley: I see. You heard Mr. Fleck's testimony Mr. Candy, in that respect, that his only concern was ~~the~~ whether ~~—~~ I don't know whether he used this expression in ~~the~~ evidence;

"closed at the top at \$34"

and that the interpretation that you placed upon the words "appraised value" was the interpretation which ~~at~~ Canada Square was also placing upon it. You have heard him say that.

Mr. Candy: Yes.

Mr. Shibley: Did you have no discussion with him in that context?

Mr. Candy: I don't honestly recall any.

Mr. Shibley: I see. Now you had a meeting with

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PLG

(Mr. Shibley)

him on ~~the~~ the first one I think you said was ~~that~~

Mr. Candy: December 5th.

Mr. Shibley: On the 5th, and another one on what day?

Mr. Candy: The other meetings were in <sup>19</sup>73.

Mr. Shibley: Yes. All right. We needn't get it ~~now~~.  
Well, we will get <sup>it</sup> those later.

In December, did Mr. Fleck at any time mention that he had had conversation with Mr. Cronyn?

Mr. Candy: No he did not.

Mr. Shibley: That was never disclosed to you.

Mr. Candy: Never discussed to me.

Mr. Shibley: Did he at any time, even right down to the time of the hearing, disclose to you that he had ~~a~~ had discussion with Mr. Cronyn about the manner in which Hydro had let this contract?

Mr. Candy: ~~Yes~~ Never. I had never heard of Mr. Cronyn until he showed up here.

Mr. Shibley: I have ~~a~~ no further questions, Mr. Chairman.

Mr. Chairman: Any member of the committee any additional questions of Mr. Candy? Mr. Gaunt?

Mr. Gaunt: I was ~~just~~ wondering, Mr. Candy, if during your meeting of December 5 with Mr. Fleck, did you have any discussion surrounding the \$34 figure and how it was established? I am not talking about the pro-ration but I am talking about the so-called "bench mark" figure of \$34. Was ~~there~~ <sup>was</sup> there any discussion ~~xx~~ around how that figure was arrived at?

Mr. Candy: Not that I recall. We probably ~~==~~ I mean the \$34 figure was mentioned here but I don't think he asked any questions about how we arrived at it.

Mr. Gaunt: So that as far as you were concerned there was no discussion on that point, having to do with the \$34 ~~figure~~ <sup>figure</sup> per ~~se~~ <sup>se</sup> It was solely around the basis



H 1120-3

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(Mr. Gaunt)

of the pro-ration and how you arrived at a calculation  
designed to compare the various submissions.

Mr. Candy: Yes. I think that is correct.

Mr. Shibley: Mr. Candy ~~==~~ I am sorry, Mr. ~~Chairman~~  
Chairman.

Mr. Chairman: Thank you Mr. Gaunt.

Mr. Shibley: I ~~had~~ <sup>have</sup> not been provided with your <sup>1973</sup>  
attendances with Mr. Fleck. When were those meetings with him?

Mr. Candy: I don't know. I haven't got those here  
and I don't know whether it was a meeting, a phone call, or  
what.

Mr. Shibley: Mr. ~~Q~~ McCallum, can you assist me?  
Did Mr. Candy have a meeting ~~or~~ or meetings, or conversations  
with Mr. Fleck in ~~the~~ 1973?

~~Mr. McCallum: Yes. I am not aware of any such  
meetings at that time.~~

Tape 1121 follows

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~~(Mr. Shibley)~~

~~conversations with Mr. Fleck in the spring of 1973~~

Mr. McCallum: No, sir. I'm not aware of any such meetings at this moment. I'm not aware of any. If counsel wants to have us check that out at lunchtime, we would be glad to but as we sit here this ~~moment~~ moment, my computer bank on the right, even he doesn't have any knowledge on it so I

Shibley:

Mr. ~~Candy~~ This is the first you have heard of it?

Mr. Candy: I could be wrong. I don't know, but we will look it up.

Mr. Shibley: Mr. Candy, can you assist us to this extent? What were the conversations about that you held with Mr. Fleck in 1973?

Mr. Candy: Well, obviously about the same subject.

Mr. Shibley: Yes. Did you prepare the April 30th letter, or ~~Mr. Candy~~ help prepare the April 30th letter, that went from Mr. Gathercole to the Premier, which was tabled in the House?

Mr. Candy: No.

Mr. Shibley: You didn't?

Mr. Candy: No.

Mr. Shibley: So your discussions with Mr. Fleck would not relate to the preparation of that letter?

Mr. Candy: No.

Mr. Shibley: And at the moment you aren't able to remember what was the subject of your discussion with him in 1973?

Mr. Candy: No, I'm afraid I can't, at present.

Mr. Shibley: Can you be at all precise as to the month within which you had discussion with him in 1973?

Mr. Candy: I'd be guessing and I don't want to guess at it. I really don't know.



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Mr. Shibley: All right, we'll leave you, then,  
to look into that over the luncheon recess, Mr. Candy.

Mr. Chairman: Mr. Deans.

Mr. Deans: Mr. Chairman, I just want to clear  
up one matter. Am I correct in assuming, Mr. Candy, that  
you stated earlier that no one knew that you were preparing  
the narrative that finally became the document of November  
15?

Mr. Candy: That no one knew?

Mr. Deans: No one - that you didn't discuss that  
with anyone other than Mr. Zabiuk and Mr. Van Bruggen?

Mr. Candy: Oh, I think Mr. Sissons probably knew  
that I was preparing it.

Mr. Deans: Do you know that he did know?

Mr. Candy: I don't really know whether he did  
or not.

Mr. Deans: Did you tell him?

Mr. Candy: Not that I recall; because when I  
finished it I just distributed it and sent it to the people  
within Hydro.

Mr. Deans: Right, but at the time that you  
decided to prepare it, you didn't discuss it with anyone  
prior to ~~that~~.

Mr. Candy: No, I don't think so. No, I don't  
think so.

Mr. Deans: You don't think you did?  
The other thing that ~~was~~

Mr. McCallum: Excuse me, I don't want there to  
be any doubt, Mr. Deans. I'm told - and maybe Mr. Candy  
should have this put to him - Mr. Sissons believes that he  
did tell him that at some time after he was preparing it and  
you should know it now.

Mr. Deans: Oh, he did ~~say~~.

Mr. McCallum: He thinks that he was told by  
Mr. Candy sometime after Zabiuk and while this thing was in the

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(Mr. McCallum)

course of preparation.

Mr. Deans: Sometime between November 7 and November 15?

Mr. McCallum: Presumably, and I would want Mr. Candy to be asked if he had any recollection of that, sir, having regard to what Mr. Sissons has just told me.

Mr. Deans: Well, you heard the question.

Mr. Candy: I heard the question. I don't recall it, but if Mr. Sissons says I did, I guess I did.

Mr. Chairman: Would you repeat the question again so we'll have ~~any~~

Mr. Deans: Well, the question is - do you recall informing Mr. Sissons that you were going to prepare or were in the process of preparing ~~the~~ what finally became the November 15 document?

Mr. Candy: No. I have to say I don't recall it, but apparently Mr. Sissons says that I did tell him so I guess I told him.

Mr. Deans: Okay. Well, there's no point in asking you when if you don't recall doing it.

The other thing that struck me was an aside more than anything else that you made ~~that~~ "any time head office building was mentioned we got problems."

Mr. Candy: Right!

Mr. Deans: I think that was an accurate assessment of what you said. Was that a general feeling or was that something that was discussed at any point?

Mr. Candy: No, that is a general feeling. That goes right back to - take the 620 building →

Mr. Deans: Over the four and a half years I can recall you saying that.

Mr. Candy: Yes, but for instance, 77 Bloor = we rented that and then ~~we~~ it was said in the Legislature ~~why~~ don't we build our own building? Why do we rent it?

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(Mr. Candy)

~~And~~ There was always the question of ~~it~~ should it be on University Avenue or where should it be? This was a problem. ~~So~~ We never had problems with other buildings, power houses and so on, but with that head office building it just seemed to ~~put up~~ put up a red flag when that thing came up. Back in the 1930's we were building the <sup>present</sup> ~~620~~ Building when the government changed and they stopped the building at the sixth floor and waited for a while and then went on again.

Mr. Deans: Well, the government's ~~done~~

Mr. Candy: It's been going for 40 years.

Mr. Deans: Governments have a tendency to stop things at the sixth floor. There is a problem ~~and~~ Did this feeling that you had ~~was~~ was that part of the reason why you proceeded so far in the investigation ~~was~~

H-1122 to follow

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V.H.

(Mr. Deans)

~~Did you know whether that feeling had something to do with the reason why the commission didn't raise it with the government earlier?~~

of the building before ~~the commission~~ the commission raised it, or do you know whether that feeling had something to do with the reason why the commission didn't raise it with the government earlier?

Mr. Candy: Oh no, I don't think that had anything to do with it. We all appreciate and had appreciated for some time that ~~historically~~ historically this head office building has always been a contentious item.

Mr. Gaunt: We hope you don't have to build another one for another 100 years!

Mr. Deans: At least for another 30 years!

Mr. Candy: That's the last one I am going to build.

Mr. Deans: That's okay. Nothing more.

Mr. Chairman: ~~Any other questions?~~ Any other questions?

Mr. Renwick: I have one question, Mr. Chairman.

Mr. Chairman: Mr. Renwick.

Mr. Renwick: Mr. Candy, exhibit 112, the memorandum of November 15 was, as I understand your evidence, prepared on your initiative for distribution as an inhouse memorandum. Would you tell me to whom it was distributed when it was completed?

Mr. Candy: Oh yes. I think there are copies of the memorandums that went with each one to the Chairman, to Mr. Evans, to Mr. Gordon, to Mr. Sissons ~~and~~

Mr. Renwick: I think the only one I have is the one to Mr. Gathercole.

Mr. McCallum: Mr. Chairman, to help ~~both~~ both the witness and Mr. Renwick, I am told there is an explanation for that. Originally when you had that, we ~~hadn't~~ hadn't discovered that there were all these others and that they ~~for~~ came to light and Mr. Gribble has them. We gave them immediately to him. I guess you haven't got them. In fact

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12.25-12.30 pm  
V.H.

(Mr. McCallum)

I went looking for mine ~~me~~ just now, and I haven't either, but I have seen them. There are a series of ~~good~~

Mr. Candy: You have the one, Mr. Renwick, to the Chairman have you?

Mr. Renwick: Pardon?

Mr. Candy: You have the letter to the chairman there?

Mr. Renwick: Yes, that's exhibit ~~four~~

Mr. Candy: They are all identical actually.

~~Mr. Renwick~~  
Mr. Renwick: I was just curious as to the actual persons to whom this inhouse memorandum was distributed.

Mr. Candy: Yes. Well it went to Mr. Evans, the vice-chairman, it went to the chairman, it went to Mr. Sissons, it went to Mr. Gordon. That's the four.

Mr. Renwick: So it was not intended for wide distribution?

Mr. Candy: No.

Mr. Renwick: It was a very limited, top-level management distribution?

Mr. Candy: That's right. You see, when a memorandum from the commission goes outside to a member of the Legislature, a copy of that always goes to the vice-chairman who is the member of the Legislature in Hydro, so he is apprised of where it goes, of the fact that it has gone.

~~Mr. Renwick~~  
Mr. Renwick: This is my problem and perhaps there is a very simple answer to it. As I understand it, it was incidental from your point of view that the memorandum went to Mr. Auld? It went to Mr. Auld because Mr. Toth had happened to ask for it?

Mr. Candy: That's right. I certainly was not preparing it for Mr. Auld in the first place and I was not aware that he even wanted one until ~~good~~



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Mr. Renwick: Having prepared it for Mr. Auld, then exhibit 113 is a brief memorandum to you advising the chairman that you had submitted it to Mr. Auld and that you were going to meet with him ~~and~~

Mr. Candy: Yes.

Mr. Renwick: ~~and~~ and I understand that it had a limited distribution also to the vice chairman because it had gone to Mr. Auld.

Mr. Candy: Yes.

Mr. Renwick: And that apart from that the only persons that exhibit 112 went to were Mr. Gordon, Mr. Sissons.

Mr. Candy: Yes. That's right.

Mr. Renwick: It just raises a question in my mind~~as~~ to what the original purpose was that you were performing in initiating the preparation on your own initiative of exhibit 112, because it had come through to me that it was <sup>for</sup> inhouse purposes but it had come through to me that it was for a relatively wide distribution within Hydro ~~and~~

Mr. Candy: Oh no.

Mr. Renwick: ~~and~~ to inform them as to what was happening.

Mr. Candy: No. It was really for the people who were directly concerned with this head office building and these were the people within Hydro, the top-level people.

Mr. <sup>en</sup>Renwick: So for practical purposes, it was ~~for~~ for three people in Hydro. It was for the chairman, ~~and~~

Mr. Candy: The general manager.

Mr. ~~Renwick~~: For the general manager and for Mr. Sissons.

Mr. Candy: Then it went to Mr. Evans because it had gone to Mr. Auld.

H-1123 follows

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12.30 to 12.35 pm  
fvk

~~(Mr. Candy)~~

Mr. Renwick: But you're again confirming to the committee now, as I understand your evidence, that the sole initiative for the work which apparently started, so far as we know on November 7, <sup>as</sup> ~~is~~ shown by exhibit number 180, is entirely with you?

Mr. Candy: That's right.

Mr. Renwick: And the sole reason ~~is~~ that you've given us, as I understand it, is the fact that the contracts were executed on ~~San Francisco~~ ~~the~~ ~~November 1~~ November 1.

Mr. Candy: November 1, yes.

Mr. Renwick: Even though, Mr. Candy, in exhibit number 112 there is no reference to that as being ~~even though there is no reference in exhibit number 112 to that as the reason~~ for its preparation?

Mr. Candy: That's right. It's just a straight narrative. We realized ~~we knew~~ that the Legislature was going to open on the 21st and part of my reason was that these people should be - the people to whom I sent it - should be ~~properly~~ apprised of the situation ~~and~~ in as much of a condensed form as possible.

Mr. Renwick: Perhaps, you can help me. It wouldn't be the first time that a document has ~~been~~ been prepared for two purposes, or a multi-purpose. I had taken your evidence that the initiative, on November 7, even though there is a reference in what I've marked as exhibit number 180-1, the notes of your meeting, the notes that Mr. Van ~~Bruggen~~ ~~pre-~~

Mr. Candy: Van Bruggen?

Mr. Renwick: ~~Van~~ Bruggen prepared does refer to the legislative meeting.

Mr. Candy: So, when I had my meeting with him on the ~~with~~ eighth I was aware of that all right.

Mr. Renwick: Perhaps you can help me with another aspect of this. Is there really any information in the memorandum of November 15 that you didn't already have?



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12.30 to 12.35 pm  
fvk

Mr. Candy: The last, the appendices, are the main thing that I had never put together before.

Mr. Renwick: That's all?

Mr. Candy: That's all. The ~~some~~ rest of it has been said, I guess, in the past. It was the type of thing with which I ~~am~~ was quite familiar myself, but I wanted to get the economics of the thing put together in the appendices which have been attached to that.

Mr. Renwick: This is not related to the commission meetings on November 8, or the commission meeting on November 1?

Mr. Candy: No. I was not at either of those commission meetings.

Mr. Renwick: Mr. Chairman, I should correct myself, there is, included in the heading, a reference - New Building Agreement. I hadn't noticed that before. But it was for a very restricted distribution amongst the top people in Hydro that were involved in it?~~and~~

Mr. Candy: That's correct.

Mr. Renwick: And you had no specific feeling, rumour or other reason that would lead you to believe that the matter was one of topical political interest?

Mr. Candy: No, that isn't the reason I wrote it, although I knew in the press release ~~that~~ <sup>that</sup> had come out on November 6, this type of thing, ~~that~~ <sup>as</sup>

Mr. Renwick: The Globe and Mail editorial.

Mr. Candy: ~~The~~ <sup>and</sup> The Globe and Mail editorial ~~that~~ <sup>that</sup> these things were around.

Mr. Renwick: Thank you, Mr. Chairman.

Mr. Chairman: Mr. Glen Hodgson.

McCallum:

Mr. ~~Hodgson~~ Mr. Chairman, I wonder, just in relation to this series of questions, if you would consider asking Mr. Candy the following question. If this matter of the building of the head office arose outside of Hydro what people in Hydro would likely have to answer, or give answers to people who would inquire about it?

~~July~~ July 10/73  
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fvk

Mr. Chairman: Mr. Candy you've heard the ~~question~~ question.

Mr. Candy: The answer to ~~him~~ that would be the people that I sent ~~me~~ the memorandum to.

Mr. Shibley: Mr. Candy, were those same people in receipt of the information contained in the ~~the~~ June 23 memorandum to the commission on which they were asked to base their decision at the meeting of ~~the~~ June 29?

(Tape H 1124 follows)



July 10, 1973  
12.35-12.40 p.m.  
M.F.

H - 1124 - 1

~~(Mr. Shibley)~~

~~contained in the June 23rd memorandum to the Commission on  
which this was based, was their decision at the meeting in  
June 1971.~~

Mr. Candy: Oh yes, they would all get that.

Mr. Shibley: Yes. And that memorandum contains much the same information as in the November 15th memorandum, leaving out the appendix, that is right, isn't it?

Mr. Candy: That is right.

Mr. Shibley: So those people would have long since had that information, is that correct?

Mr. Candy: Yes, except that what I have never done before was to go over the economics of the ~~primary~~

Mr. Shibley: I mean aside from the appendices, the memorandum proper contained the self-same information as was in the June 23, 1972 memorandum, that was prepared for the Commission meeting? Isn't that so?

Mr. Candy: Quite a bit of it, I guess. I never really compared it, but I guess that is so.


Mr. Shibley: And similarly going one step further back, the same people would have contributed to, and received, or at least had a chance to review, the April 10 memorandum prepared by you and Mr. Mink?

Mr. Candy: Yes.

Mr. Shibley: And that memorandum in even greater detail, sets out substantially all of the information in the November 15 memorandum, does it not?

Mr. Candy: I compared that this morning as a matter of fact and not really. The reasons I have in there are not spelled out the same as I have in this memorandum.

Mr. Shibley: I think what Mr. Renwick was really asking about is in the circumstance where the same people to whom you were distributing the November 15 memorandum had already the



July 10, 1973  
12.35-12.40 p.m.  
M.F.

H - 1124 - 2

(Mr. Shibley)

*at of the*  
April 10 memorandum, and the June 23 memorandum, why was it considered necessary to compile this memorandum of November 15 just for internal purposes?

Mr. Candy: Oh I guess for the same reason that I write so many filing memos myself. It was a record, something I wanted to put on record.

Mr. Shibley: I thought you had said earlier to Mr. Renwick that it was in order that they be informed so that should they be asked any questions, but were they not already informed in depth by reason of all that had gone before, including the memoranda ~~to~~ which I have referenced?

Mr. Candy: That is quite possible.


Mr. Shibley: Yes. Then against that background and against the background of what was happening at Queen's Park, do you still say that there was no element of political considerations entering upon your creating the November 15 memorandum?

Mr. Candy: No, as I have said, in creating that memorandum,

Mr. Shibley: I know what you have said, I just want you to answer the question. You are still saying, against the background of these people all ~~already~~ having already received that kind of information, that there was no political consideration which brought about your preparation of the November 15 document?

MR. McCallum: Excuse me, Mr. Chairman, before the witness answers that, I am not just sure what is meant by Mr. Shibley saying "political considerations". We all know from this witness that in one sense he had it in the back of his mind that questions might be arising at some time, and we know from that memorandum of November 8th, that he was conscious of the matter coming up in the House sometime in the future. If that is the way you meant it, sir, I suppose ~~=====~~

Mr. Shibley: You put words into his mouth. He did not say he was conscious of the matter coming up in the House,



H - 1124 - 3

(Mr. Shibley)

he just simply said he was conscious of the House opening on the 21st, did you not, Mr. Candy?

Mr. Candy: That is right.

Mr. Shibley: And your evidence, as I understand it, is that you had no indication that this would be a subject which was raised in the House?

Mr. Candy: That is right.

Mr. Shibley: And you are sticking to that evidence, notwithstanding, as I say, that my previous line of questioning and that of Mr. Renwick would indicate that the people for whom you say you were preparing this in the ordinary course had already been informed as to the information in the memorandum?

Mr. Candy: Yes, that is correct.

Mr. Chairman: Now we will go to Mr. Glen Hodgson, and then back to you, Mr. Renwick.

Mr. G. Hodgson: Could I ask you, Mr. Shibley, have we found that an annual saving ~~of~~ the Hydro of \$2.4 million was an error?

Tape H - 1125 follows



July 10/73  
12:40-12:45 p.m.  
PLG

~~(R. G. Hodgson)~~

~~We found that the annual saving of the Hydro of 24 million was~~

~~in 1972~~

Mr. Shibley: Yes, it was, Mr. Hodgson.

Mr. R. G. Hodgson: Then I'd like you to ask Mr. Candy, with regard to Exhibit 123 of April 25, 1973, on page 6 ~~text~~ near the bottom.

Mr. Shibley: What exhibit? I am sorry.

Mr. R. G. Hodgson: 123. A letter from Mr. Gathercole to the Premier.

Mr. Shibley: Yes, thank you.

Mr. R. G. Hodgson: And down in the ~~last~~ last paragraph, about half-way, it is again stated:

"Thus there is an immediate annual saving of \$2.4 million"; and this letter would indicate that a copy went to Mr. Candy.

Mr. Candy: That is still correct. If you look at my December 6, the final attachment to that memorandum it is about \$2.38 million.

Mr. Shibley: You have confused me also, I must say Mr. Candy. I had taken from your earlier evidence that the \$2.4 million ~~annual~~ saving was an error by some \$700,000.

Mr. Candy: Yes.

Mr. Shibley: And that the actual amount of the saving was \$1.7 million.

Mr. Candy: Yes, but what I am saying is if you follow the current chronology of that through, there, as we went farther,

Mr. McCallum: Mr. Shibley, you will find in the lead letter in that file that you are looking at, Mr. Candy's explanation as I recall.

Mr. Candy: December 6, the saving is

Mr. Shibley: Let me get it into the record then. "The November 15, 1972 Report did not take into account the escalation that would occur on present Hydro rented and owned facilities, and also calculated the rental projected

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12:40-12:45 p.m.  
PLG

(Mr. Shibley)

revenue from surplus space available for leasing to others at \$8. per square foot. Accordingly, Mr. Candy revised the November 15 report by preparing a new page 2 of the appendix, altering for escalation and showing a rental figure of \$8.50 per square foot, which was felt to be more realistic as of 1975. This necessitated a corresponding change to ~~the~~ page 5 <sup>By</sup> ~~the~~ letter dated November 21, 1972, a new page 5 and page 2 of the appendix were forwarded to the original recipients by Mr. Candy's secretary to use as replacements. These corrections are reflected in the November 29 report which was sent to Mr. Gathercole.\*

"The November 15 report also <sup>initially</sup> contained an arithmetical error but this was corrected before it reached the above-mentioned recipients. The error was in the calculation of \$381,950 square feet at \$8, which was corrected from \$3,797,600 to read ~~3,079,600~~ a difference of ~~718,000~~ \$718,000. Mr. Gathercole's memorandum to the Premier dated November ~~16~~ 16, was based on Candy's first version of the November 15 report and showed an estimated ~~19,416~~ \$2,460,000 annual savings. This ~~figure~~ figure includes <sup>the</sup> \$718,000 difference. And then there is a calculation made showing a net real saving of \$1,742,907. Is that correct?

Mr. Candy: Yes. That was on that ~~original~~ original one.

Mr. Shibley: "The November 29 report was again modified, resulting in the December 6, <sup>1972</sup> ~~1972~~ report <sup>the</sup> to 1,208,000 square feet of leased area was reduced to 1,124,500 square feet, by deducting the commercial area. This resulted in a change in the rental rates from 4.92 to 4.84 per square foot, the revenue from rent for the commercial area was correspondingly omitted. This changed ~~and~~ the immediate annual savings from ~~2,380,000~~ \$2,380,000 to \$2,379,857."

Mr. Candy: You see, that last change isn't as complicated as it sounds. That is a kind of a technicality there. We used the 4.84 in the agreement, you know, as a composite figure. I just wanted to bring that up-to-date with the



H 1125-3

July 10/73

~~12:40-12:45~~ p.m.

PLG

(Mr. Candy)

agreement. I think it brings it up a few dollars.

Mr. ~~Shibley~~ Shibley: But what I don't understand,

Mr. Candy is ~~that~~ did you bring ~~the~~ the savings again back up  
to ~~2 million~~ <sup>\$2.4 million</sup> by building in the adjustment?

~~Mr. Candy: No. No. I knew you would ask me that.~~

~~But that is not right.~~

Tape H 1126 follows

July 10, 1973  
12.45-12.50 pm  
V.H.

~~(Mr. Shibley)~~  
~~Mr. Shibley: I am with Mr. Hodgson, I don't~~  
~~understand this. You got the real savings down to \$1,742,000.~~  
~~How did you bring it back up to \$2.4 million, as per your~~  
~~letter.~~

Mr. Candy: No. No. I knew you would ask me that.  
But that's not right. This is correct and this is what ...

Mr. Shibley: I am with Mr. Hodgson, I don't  
understand this. You got the real savings down to \$1,742,000.  
How did you bring it back up to \$2.4 million, as per your  
letter.

Mr. Candy: Well the major thing was that we had  
based our calculations on our present rented facilities as  
of 1972 and not 1975. So we brought that up to 1975, we  
escalated that to 1975, the geographic scatter came up as  
well. Then we changed -- I made a survey which is on --  
had our property people make a survey of rents on University  
Avenue and Bloor Street and rents on, for instance, 5222  
University Ave, National Life, was \$8.50 <sup>to \$9.50</sup> and so on. I

Mr. Shibley: Mr. Canday, before you go on

Mr. Candy: Brought that up to it.

Mr. Shibley: Before you go on, I am beginning to  
see why Mr. Hodgson is concerned. On November 16, Mr.  
Gathercole wrote to the Premier and said "we are saving  
\$2.4 million a year."

Mr. Candy: Yes, that's right.

Mr. Shibley: Then you discovered the error which  
indicated the true saving was \$1,700,000 per year - is that  
correct?

Mr. Candy: Yes.

Mr. Shibley: Then you by reason of the escalating  
process, brought the saving back up to \$2.4 million, is that  
correct?

Mr. Candy: Yes.

Mr. Shibley: Do you employ the escalating process  
in the same way as you employed the pro-rating process to  
come to a predetermined result?

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V.H.

Mr. Candy: I assumed you would ask me that question, but that is not the reason we did it.

Mr. Shibley: I see. It wasn't that you were searching an additional factor to bring the figure back up to what you had represented to the Premier back in November?

Mr. Candy: No. No. I can understand you saying that, but that is not what we did.

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~ What we have now is a realistic figure of the situation, and that doesn't take into account of course any profit that we might get out of the commercial area.

Mr. Chairman: Mr. Shibley, just for the record, you have been reading from the summary that Hydro gave you this morning?

Mr. Shibley: Yes, I have.

Mr. Chairman: Which I don't believe the rest of us have?

Mr. Shibley: No. I think actually if this summary were provided even without the supporting data it would be very useful to the committee and that would save voluminous reproduction.

Mr. Chairman: Is Mr. Candy in a position to identify or to vouch for the summary that has been prepared?

Mr. Shibley: I think you are, and you not, Mr. Candy?

Mr. Candy: Yes, I have seen that.

Mr. Chairman: All right. We will get that later.

Let me mark that and give it any exhibit number now, It will be 181 I believe.

Mr. McCallum: Mr. Chairman, we will provide that and just for purposes of the record, Mr. Shibley didn't get that particular document that he is reading from just this morning. That was sometime earlier, sir. It is just that they had some extra file folders, they all come out in purple. I think he has had it for some time.

July 10, 1973  
12.45-12.50 pm  
V.H.

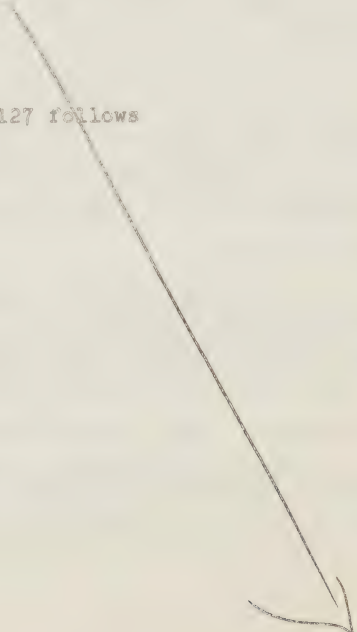
Mr. Chairman: We will get the summary and Mr. Candy is identifying it as to its accuracy and I will <sup>MARK</sup> ~~mark~~ it as exhibit 181.

Now, Mr. Renwick, I am looking at the time, it's ten to one, twelve to one, are you likely to be long with your questioning?

Mr. Renwick: No I won't be long. I don't know about Mr. Candy.

I don't want to press this unduly but I would appreciate it if I could refer, Mr. Chairman, to Mr. Candy, exhibit 96, which is the very lengthy report of Mr. McCallum to the chairman and members of Hydro, dated October 25, 1972; to exhibit 97, the Memorandum to ~~the~~ commission of October 25, 1972, signed in this case by yourself, by Mr. Gordon and Mr. Sissens, to the chairman and the commissioners; exhibit 99, a further letter of October 27 I believe the date is, ~~from~~ from Mr. McCallum to the chairman and members of the commission; the Memorandum to ~~the~~ Commission of November 1, 1972 which is exhibit 100; and the "Advice of ~~the~~ Commission Decision," exhibit 101. I think that is sufficient. It still leaves me with the question in my mind about why with all of that voluminous information, there was still

H-1127 follows



July 10, 1973  
12.50 - 12.55 p.m.  
Mik

(Mr. Renwick)

~~with all of that voluminous documentation, which was still~~  
any need ~~and~~ if I can use this term as my term to up-date the previous documentation respecting the rationale, which is part of Exhibit 112? I don't know whether I have expressed that very well. You had just been through a period of time when there was voluminous reporting and recommendations put forward by the top level management of Hydro together with Mr. McCallum, leading to the completion and the execution of the final documents with Eanada Square.

Mr. Candy: Yes.

Mr. Renwick: And yet on November 7 - no, on November 6, in Exhibit 102,

~~So~~ Mr. Candy: I haven't got 102 here.

Mr. Renwick: There is a memorandum, H.J. Sissons, about new head office building referring to it and referring to Mr. Nestish's stressing the importance of reviewing the agreements in their entirety and in this regard the commission is largely dependent on the competence and authority of Mr. Candy, as architect, and Mr. McCallum, as legal consultant. Now, with all of that documentation, of such recent and voluminous origin, with your approval, the approval of Mr. Gordon, the approval of Mr. Sissons, ~~all of that~~ with the approval of Mr. McCallum <sup>all of it</sup> going to the commission, it still leaves a very real question in my mind as to what the point was in going through this exercise of up-dating ~~and~~, as I say, that is my term ~~the~~ the information apart from the ~~see~~ schedules set out in the November 15 memorandum, on which you immediately started to work, apparently, on November 7.

Mr. Candy: Yes, I think one of the answers is the word you used, "voluminous", ~~to~~ to get this down into a concise form ~~and~~ I think what I was trying to do <sup>was</sup> to get this into a simple, non-technical form which would ~~be~~ you see, some of this information you have here <sup>and</sup> there is quite a bit of it -



July 10, 1973  
12.50 - 12.55 p.m.  
M.R

(Mr. Candy)

letters from Mr. McCallum ~~has~~

Mr. Renwick: But for who, Mr. Candy? You didn't need it in a simple, non-technical form for Mr. Gathercole or for Mr. Gordon or for Mr. Sissons or for Mr. McCallum or for yourself.

Mr. Candy: Well, when I say ~~has~~

Mr. Renwick: Because you had just been through the responsibility of recommending jointly ~~the group of you~~ recommending the final execution of these agreements with meticulous care. Now, why would - what purpose would it now serve to re-state on November 15, in Exhibit 112, to Mr. Gathercole, Mr. Gordon, Mr. Sissons ~~leaving aside~~ Mr. Auld and Mr. Evans - who got to by accident, this business about in-house capability; previous experience in lease-purchase arrangements; capability to handle a project of this complexity; minimum of other interests and commitments so that full attention could be given; agreement to retain an outside architect; the maintenance of good working relationship between the parties during the life of the contract. Those were matters which surely, Mr. Candy, must have been at that point in time, past history, so far as the four top level men in Hydro were concerned and no longer of any significance?

~~And~~ perhaps all I can do is to leave the question. I find it extremely difficult that having gone through that exercise you would find yourself on the morning of November 1 up-dating, this information.

H-1128 to follow

July 10/73  
12.55 to 1.00 pm  
fvk

(Mr. Renwick)

~~over the whole thing, or starting in on it?~~

Mr. Candy: Yes. There is no - I think it's a matter of putting it all together and getting it into one report. There is no other ~~and~~

Mr. Renwick: Mr. Chairman, could I put to Mr. Candy that it is a <sup>re-</sup>statement of the rationale, not for the purpose of internal use but for the purpose of external use, and that ~~that~~ was its sole purpose?

Mr. Candy: No, I disagree with that, entirely, Mr. Renwick: That was not its purpose. Its purpose was for internal use. If anybody in the commission had ~~asked~~ asked me to do this thing, I would have prepared it and sent it to them with a memorandum saying, "As requested", and if you can see by those memoranda<sup>a</sup>, this is not what I did. This is back in November when I wrote these memoranda<sup>a</sup>. I prepared this thing and I sent ~~them~~ them to them for their information ~~as~~ entirely. It never went outside the commission except that the chairman saw fit to send it out on his own and I never prepared it for anything to go outside. It's ~~definitely~~ definitely an internal document and that was the reason for its preparation.

Mr. Renwick: Mr. Chairman, I'm not going to pursue it. It's a problem that still remains in my mind about them.

Mr. Chairman: Mr. Candy, I think you raised, this morning, suggestions of 1973 appointments with Mr. Fleck on which you were going to get some information <sup>from</sup> that you may have that by 2:30 this afternoon. <sup>In view of</sup> the fact it's ~~now~~ 1:00 o'clock, I think we should ~~adjourn~~ adjourn until 2:30. Are we agreeable to that?

The committee took recess at 1:00 o'clock, p.m.



## APPEARANCES

Committee members:	J.N. Allan J.E. Bullbrook I. Deane K. Canac L.C. Henderson R.C. Hodgson W. Hodgson J.P. MacBeth (Chairman) W. Newman J.A. Renwick G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Shibley, QC J.P. Bell
Ontario Hydro counsel:	Pierre Genest, QC James McCallum, QC
Canada Square Counsel:	Douglas Laidlaw, QC Blair Cowper-Smith G.D. Finlayson, QC
Commission Architect, Ontario Hydro:	Kenneth H. Candy

List of exhibits introduced during this sitting appears on last page.

INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Page</u>	<u>Description</u>
181	1126-2	Summary of events referable to November 15, 1972 meeting.



LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Tuesday, July 10, 1973

Afternoon session



July 10/73

2:45-2:50pm  
C.B.

## LEGISLATURE OF ONTARIO- SELECT COMMITTEE

## HYDRO HEADQUARTERS

Mr. Chairman: Ladies and Gentlemen, we have a quorum. So I will call the meeting to order. Mr. Candy was giving testimony and he's back with us. ~~So~~ Mr. Shibley, if you will proceed, please.

Mr. Shibley: Mr. Candy, because you've had the recess to consider further the answers you gave this morning and other matters that I confronted you with,

I want to first read back to you your morning's testimony as found in Hansard at 1123-3.

"Mr. Shibley: Mr. Candy, were those same people in receipt of the information contained in the June 23 memorandum to the commission on which they were asked to base their decision at the meeting of June 29?

"Mr. Candy: Oh yes, they would all get that.

"Mr. Shibley: Yes. And that memorandum contains much the same information as in the November 15th memorandum, leaving out the appendix; that is right, isn't it?

"Mr. Candy: That is right.

"Mr. Shibley: So those people would have long since had that information, is that correct?

"Mr. Candy: Yes, except that what I have never done before was to go over the economics of the ~~the~~

"Mr. Shibley: I mean, aside from the appendices, the memorandum proper contained the self-same information as was in the June 23, 1972 memorandum, that was prepared for the commission meeting? Isn't that so?

"Mr. Candy: Quite a bit of it, I guess. I never really compared it, but I guess that is so.





July 10/73

2:45 - 2:50 pm

C.B.

"Mr. Shibley: And similarly, going one step further back, the same people would have contributed to, and received, or at least had a chance to review, the April 10 memorandum prepared by you and Mr. Mink?

"Mr. Candy: Yes.

"Mr. Shibley: And that memorandum, in even greater detail, sets out substantially all of the information in the November 15 memorandum, does it not?

"Mr. Candy: I compared that this morning as a matter of fact, and not really. The reasons I have in there are not spelled out the same as I have in this memo.

"Mr. Shibley: I think what Mr. Renwick was really asking about is in the circumstance where the same people to whom you were distributing the November 15 memorandum had already the benefit of the April 10 memorandum, and the June 23 memorandum, why was it considered necessary to compile this memo of November 15 just for internal purposes?

"Mr. Candy: Oh, I guess for the same reason that I write so many filing memos myself. It was a record, something I wanted to put on record.

"Mr. Shibley: I thought you had said earlier to Mr. Renwick that it was in order that they be informed so that should they be asked any questions, but were they not already informed in depth by reason of all that had gone before, including the memoranda which I have referenced?

"Mr. Candy: That is quite possible.

"Mr. Shibley: Yes. Then against that background, and against the background of what was happening at Queen's Park, do you still say that there was no element of political considerations entering upon your ~~and~~ creating the November 15 memorandum?

"Mr. Candy: No, as I have said, in creating that memorandum ~~entry~~ ' "



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2:45 - 2:50 pm

C.B.

(Mr. Shibley)

Then there is exchange between myself and Mr. McCallum, which I don't think is too relevant.

"Mr. Shibley: And your evidence, as I understand it, is that you had no indication that this would be a subject which was raised in the House?

"Mr. Candy: That is right.

"Mr. Shibley: And you are sticking to that evidence. notwithstanding, as I say, that my previous line of questioning and that of ~~Mr.~~ Renwick would indicate that the people for whom you say you were preparing this in the ordinary course had already been informed as to the information in the memorandum?

"Mr. Candy: Yes, that is correct."

~~Mr. Candy:~~ Mr. Candy, I realize that you've had those questions put to you at a point in time this morning and since that time you've had an opportunity to reflect on them. Was there an ~~an~~ additional purpose to that which you stated to this committee this morning, for the preparation of the document which you sent to the various people within Hydro?

Mr. Candy: Yes, I think in looking over it in the lunch break, as I said this morning, it was a document, an internal document, prepared for the four people that we have mentioned, but I think in addition to that....

H1130 to follow





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2.50 to 2.55 pm  
DT

(Mr. Candy)

~~As I said this morning, it was a document, an internal document, prepared for the four people that we have mentioned but I think~~  
~~it was intended that they would be prepared~~  
by this document to answer questions which people outside the commission may be asking and also to make it possible for them to give a copy of this document to other people, that is responsible people, so that they would be apprised of the situation as well.

Mr. Shibley: So that, Mr. Candy, in fact the memorandum was prepared by you with the knowledge that it would be employed first to inform outside people, and in certain cases to have the document itself provided to outside people. Is that correct?

Mr. Candy: Yes, with that possibility in mind - whether or not it would happen, I am not sure, but the same as it was given to Mr. Auld outside but this is correct, yes.

Mr. Shibley: But when you prepared the document, you had in mind that it was a document that would be provided to outside people, people outside Hydro?

Mr. Candy: Through these four people at their discretion.

Mr. Shibley: Right, so you weren't going to deliver it directly to anyone but through ~~these~~ these four people it was intended that it be available to outside people?

Mr. Candy: That's correct.

Mr. Shibley: And in that relationship, was it ~~was~~ outside people who were members of government whom you might expect would be in receipt of the document through these four people?

Mr. Candy: I think it could be either one, either governmental people or other people in various ridings that ~~is~~

Mr. Shibley: Yes, and you knew that at the time you prepared it?

Mr. Candy: Yes, I knew that it was being prepared for these people in order to answer questions and in answering questions if they felt that they should give them a copy, this would



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(Mr. Candy)

be an advantageous way of doing it in a concise form.

Mr. Shibley: Now, Mr. Candy, against the background of your evidence at this time, was one of the people that was in mind to receive this document through one of the other four within Hydro, Mr. Fleck?

Mr. Candy: No, actually I had nobody in mind.

Mr. Shibley: No one in particular?

Mr. Candy: Nobody in particular in mind.

Mr. Shibley: It was just that if anyone in government asked for it, it would be available ~~and~~

Mr. Candy: That's right.

Mr. Shibley: To be provided to them. Now, did anything occur that caused you to anticipate a request from anyone in government for such a document, such that you would undertake it's preparation when you did?

Mr. Candy: No, I don't really think so. I still think it's - of course there were, you know, questions were being asked and the possibility of it being used was there surely.

Mr. Shibley: I am thinking of the particular time when you undertook ~~that~~ it's preparation, which appears to be around November 7 and following, was there anything communicated to you or any occurrence or anything, whatever ~~any~~

Mr. Candy: No.

Mr. Shibley: Which prompted you to undertake the preparation of a document which, through the four Hydro persons you mentioned, would be provided to outsiders?

Mr. Candy: No, there was nobody -- nobody asked me for it or prompted me to do it but I think that in my own mind by reason of the fact that there was quite a bit happening in the press and questions were being asked that this would be a useful document for these four people to use or to give to other people that they felt <sup>was</sup> responsible people that should receive it.

Mr. Shibley: All right, then I can take it, Mr. Candy, that from where you sat at that time the only thing that you were told, however the instruction filtered down to you, to \_\_\_\_\_





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DT

(Mr. Shibley)

prepare the memorandum, from what you were told it was just in general terms you were to prepare a memorandum to be given to these four people to be distributed to outsiders as and when they might request it. Is that the situation?

Mr. Candy: Yes, that's - I ~~guess~~ guess that's the situation. When you say you were told, I think ~~that~~ that Mr. Sissons ~~he~~ talked to me about it. I am not divorcing the fact at all that I did most of this on my own initiative.

Mr. Shibley: I realize you did it --

Mr. Candy: Yes.

Mr. Shibley: ~~you~~ You did the work-up material --

Mr. Candy: Yes.

Mr. Shibley: But I gather someone ~~he~~ spoke to you in terms of preparing the document. Was it Mr. Sissons?

Mr. Candy: I would think Mr. Sissons was the one that talked to me.

Mr. Shibley: Yes, so Mr. Sissons told you to prepare a document intended to be distributed to four people within Hydro, so that they might in turn--

(H-1131 to follow) ✓



H-1131-1

(Mr. Shibley)

~~proper document intended to be distributed to people within~~  
~~Hydro so that they would then provide it to outsiders if~~  
required. Is that the situation?

Mr. Candy: Yes. I would say that is right.

Mr. Shibley: All right.

Mr. W. Newman: Mr. Chairman, I am a little confused.

This morning, Mr. Candy, you gave evidence to the fact that you did this on your own initiative and that you probably told Mr. Sissons that you were doing this. I see a lot of head noddings back there; going various ways back there.

May I ask you, Mr. Candy, why you <sup>have</sup> changed. Is this because of your lunch hour break, or is it because..-

Mr. Candy: I am not really changing my evidence actually. I did this... I had talked to Mr. Sissons as I said this morning, and in talking to Mr. Sissons, I can't recall just what our conversation was but I think between the two of us we agreed that this should be done, and submitted to these four people. Mr. Sissons did not participate with me in putting this information together, and I would think that in going and discussing it with him that the initiative was probably more on my side than it was on his side. But he agreed it should be done and said it could be used for these purposes.

Mr. W. Newman: Did I gather this morning - and I don't have a copy of Hansard - but in your evidence this morning I believe that you point out the contract was signed on November 1.

Mr. Candy: November 1, yes.

Mr. W. Newman: You saw an article in one of the newspapers on November 6th.

Mr. Candy: November 6th.

Mr. W. Newman: Which probably alerted to your mind the fact there might be a problem and therefore you started on November 7 to do this.

Mr. Candy: I would say I started around then yes. November 7 was when I solicited some assistance to do it.



H-1131-2

Mr. W. Newman: Did the newspaper article alert you to the fact there might be some future discussions on this matter and that is where it started?

Mr. Candy: Well partly. But as I said this morning, I mean any time we touch the head office building we have got a problem.

Mr. Chairman: Mr. Deans.

Mr. Deans: Mr. Chairman, the matter of the newspaper report is interesting. Exhibit 102 and exhibit 106 both discuss the need to prepare some kind of a document. Exhibit 102, which is dated November 6, and which I believe is - I don't have exactly where it came from, you will have to check it for me, exhibit 102 says under the heading "New Head Office Building". It is, obviously item 2, ~~and it has to the left of it the initials HJS~~, and it says:

"For the information of the Committee Mr. Sissons reported on several aspects of the negotiations with Canada Square Corporation ~~leading~~ up to the submission of a Memorandum to the Commission dated November 1, 1972.

"Mr. Nastich in particular, as well as other members of the Committee, stressed the importance of reviewing the agreement with the Corporation in its entirety. Mr. Sissons agreed that this was essential, and stressed that each detail in the negotiations of sundry compromises with the Corporation should be appropriately and completely documented. In this regard, the Commission is largely dependent on the competence and authority of Mr. Candy"

And it goes on. Number 106 says, and it is "Memorandum For File - Commission Meeting of November 18, 1972"

"In the conversation dealing with the building, the question was raised by Mr. Nastich as to the valid reason that could be listed which influenced the Commission in adopting this method of obtaining a New Head Office building. Mr. Nastich outlined various points which would require strong rebuttal and a firm statement on the advantages obtained by dealing with Canada Square Corporation for a negotiated contract rather than the ~~Commission~~ Commission undertaking the project itself."

I ask you, Mr. Candy, are those two matters not the reason why you prepared the document?





H-1131-3

Mr. Candy: Those were in front of me this ~~morning~~ morning, and I haven't seen those things actually.

Mr. Deans: You have not seen them?

Mr. Candy: No.

Mr. Deans: I'm sorry. Could Mr. Candy see exhibit 102 and 106 please.

Mr. Candy: I mean I saw them here this morning. What I am saying is at that time...

Mr. Deans: Yes, I'm sorry..

Mr. Candy: One is a minute, isn't it, from a committee meeting?

Mr. Deans: One is a minute from a meeting, and the other is a memorandum for file. I don't have the front page of the minute and therefore I am afraid I can't tell you exactly what it is.

Mr. Durand: One is a commission meeting and the other is a general managers' committee meeting.

Mr. Deans: So the general managers' meeting came prior to the commission meeting?

Mr. Candy: That is right.

M. S. N.

*[Faint, illegible handwriting]*

1132-1 follows



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3.00-3.05 p.m.  
M.F.

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Mr. Deans: I will wait until Mr. Candy has the document.

Mr. Candy: You see anything I would get out of that, if it came to me at all, would probably be through Mr. Sissons. I was not at either one of those meetings.

Mr. Deans: Well, dealing with 102, it seems that Mr. Sissons raised at the general managers' meeting the need to -- well, he raised the whole matter of negotiations, I will put it that way, ~~he~~ reported on several aspects of the negotiations.

Mr. Nastich raised, together with other members of the committee - and I am not sure if that included Mr. Sisso<sup>ns</sup> or not - but certainly <sup>he</sup> raised the need to set out pretty clearly the terms of the agreement that were beneficial. Then two days following that, in the memorandum for file of the Commission meeting, Mr. Nastich, again, in conversation dealing with the building, set out that it was required that there should be a listing of the valid reasons which influenc<sup>ed</sup>ed the Commission, ~~and~~ it seems as if this was a matter for discussion at two meetings on two days, the 6th and 8th of November.

Mr. Candy: This 102 is the 6th is it?

Mr. Deans: Yes, sir, it is. It seems as if the whole matter of the need to prepare such a document initiated with discussions on the 6th of November, and became a matter of Commission consideration on the 8th of November; and that it was a decision of the general managers on the one hand and of the Commission on the other hand, that some kind of documentation was required; and that you didn't, in fact, proceed simply on your own initiative because you thought it might be a good in-house project.

Mr. Candy: I still don't change my evidence. I had not seen either of these documents till today when they were here; but Mr. Sissons, of course, was aware of both of them, and I guess in my discussions with Mr. Sissons, <sup>you</sup> say one was the 6th <sup>and</sup> I started around that time, around the 7th ~~and~~ I think it is a



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(Mr. Candy)

matter of Mr. Sissons' views on this coming together with mine at the one time, and I don't think that ----

Mr. Deans: Well, let me look at it. <sup>It</sup> It is not a matter of Mr. Sissons' views coming together with yours at the one time. Mr. Sissons raised the matter which Mr. Nastich followed up, as well as other members; and unfortunately we don't know who the other members were.

The Commission, then, recognized, and they go on to say "It was recognized that the same results might have been obtained by these methods, for the present manner of proceeding with the head office building does not guarantee it would be necessarily cheaper or that the Commission would obtain a better building.

"It was agreed that with these questions in mind, answers would likely be required from time to time. In any event it would be advisable for those sections of property, engineering and finance concerned to prepare a detailed statement on why the Commission has proceeded in this manner for the head office building"

Now it seems to me, in reading the two documents, 102 and 106, that a decision was made on the one hand at a meeting at which Mr. Sissons was present, and which he initiated, and was adopted by the Commission that this document that you prepared should be prepared, and ~~that whether~~ you were told directly to prepare it, or whether it was simply mentioned to you in passing, that somebody somewhere surely discussed with you the need to carry it through.

Mr. Candy: I am not going to resort to mention in passing or recollection or anything else. <sup>But just to say</sup> I have no -- I hate to use the word recollection now, of anybody. I did discuss the thing with Mr. Sissons, but not certainly in the context of *it* being an instruction to me to do something.

We probably ----





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3.00-3.05 p.m.  
M.F.

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Mr. McCallum: Mr. Chairman, this morning I interrupted the discussion that was going on to bring to the committee's attention the fact that ~~Mr.~~ Mr. Candy had reached approximately the same point in his evidence he is in right now ~~and~~ I interrupted the discussion to point out that Mr. Sissons had informed me that he had spoken to Mr. Candy about this matter.

I did not say - and I am satisfied Mr. Sissons did not, and I would be happy to have him called, ~~he~~ he did not instruct Mr. Candy to make this memorandum, ~~and~~ I think Mr. Deans recognized then a point, and he must be exploring that same point now ~~because when he stated that he had spoken to Mr. Sissons I apprehended it struck some chord with him and that he was interested in that I want to indicate in~~

~ follows



July 10, 1973

3.05-3.10p.m

B.A.

H-1133-1

(Mr. McCallum)

point now, because I know it struck some <sup>cord</sup> ~~cord~~, at least I apprehended it struck some <sup>cord</sup> ~~cord~~, right then. I want to make it clear, sir, that I wasn't intending to convey to you that I was instructed by Mr. Sissons that he, in turn, had requested or instructed Mr. Candy to prepare this thing. All I was doing was to say that there had been a discussion between Mr. Sissons and Mr. Candy, and it was Mr. Candy who had mentioned it to Mr. Sissons. Now, if there is any confusion in the minds <sup>of</sup> ~~of~~ you, sir, or any other member of the committee, Mr. Sissons will go back ~~in~~ into the box immediately and make it clear to you that there were no such instructions passed on. That may help you to get over this point, because I certainly created it this morning by trying to make things perfectly clear to you.

Mr. Chairman: All right. I don't know ~~whether~~ whether you are helping it now, either, Mr. McCallum. Mr. Deans, you were questioning.

Mr. Deans: Well, I was ~~just~~.

Mr. Shibley: Just for a moment, I would like to put one question to the witness which may summarize what you are getting at. You did have a conversation with Mr. Sissons on or about the time the decision was taken to have you create this document? That much is clear.

Mr. Candy: Yes, I remember telling Mr. Sissons that I had talked to Mr. Zabiuk about getting somebody, and I thought that was a good idea.

Mr. Shibley: Now, did he contribute to the decision that such a memorandum should be prepared?

Mr. Candy: Let's put it another way. He agreed that it was a good ~~idea~~ idea.

Mr. Shibley: When he spoke to you <sup>and you</sup> ~~can he~~ mentioned that this was in mind, he encouraged you to get on with it?

Mr. Candy: Yes.



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B.A.

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Mr. Shibley: He didn't tell you, I gather, ~~what~~ what had happened at the meeting to which Mr. Deans has referred; is that correct?

Mr. Candy: That is correct.

Mr. Shibley: But, on the other hand, he knew, ~~with~~ without telling you, what had gone on and without giving you a directive that you were going to prepare this memorandum.

Mr. Candy: That's right.

Mr. Shibley: And it was part of the discussion between you that the memorandum should be ~~prepared~~ <sup>prepared</sup> in a form such that it could be made available to outsiders.

Mr. Candy: I would think that is correct.

Mr. Shibley: Mr. Deans, I really think that is all that is required in ~~the~~ the area, if you agree.

Mr. Chairman: I don't want to cut Mr. Deans off. I think the subject has been covered.

Mr. Deans: Yes.

Mr. Shibley: Mr. Candy, there was another document, the relevancy of which escaped me earlier and I am not sure it is still terribly relevant, but I have asked your people to discuss with you a document appendixd to a memorandum dated December 7, 1972, which I now produce to you. It is a memorandum from Mr. Dennis A. Deak to Mr. C. D. McQuinn, ~~with~~ <sup>with</sup> Mr. Gathercole's name written across it. Have you gone over that document with your counsel over the luncheon recess as well, as I asked you to do?

Mr. Candy: They spoke to me about it. This is a ~~new~~ document prepared by Peter Maitland.

Mr. Shibley: Yes. Just hang on a minute until the members have their copies.

Mr. Chairman<sup>n</sup>: This will be Exhibit 181.

Mr. Gaunt: The information in the ~~whole~~ <sup>whole</sup> booklet is 181.

Mr. Chairman: All right, you are correct. That is 182.





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3.05-3.10p.m.

B.A.

Mr. Shibley: It's like Hank ~~Shibley~~ <sup>Adon</sup> moving

in on Babe Ruth's ~~xxxxx~~ record.

All right, Mr. Candy. You notice the memorandum starts off, "This is the material which the chairman requested Peter to do on the new head office building".

Mr. Candy: Yes.

Mr. Shibley: "It has been reviewed by Henry Sisson and Ken Candy."

Mr. Candy: Yes.

Mr. Shibley: Can you tell us what this document is all about?

Mr. Candy : Well, Peter Maitland used to be on our public relations staff. He is now working independently and does work occasionally on special ~~assignments~~ assignments, ~~and~~ the chairman, as I understand it, got him <sup>in</sup> and asked him to do a write up. Peter brought it over to me and I went <sup>through</sup> ~~over~~ it with him to determine whether or not it was

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3:10-3:15 pm  
C.B.

(Mr. Candy)

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~ correct,  
and that was about all I had to do with it actually. What  
the document was ultimately used for I can't say.

Peter had started, the odd time he had ~~done~~  
something and ~~done~~

Mr. Shibley: Have you any idea as to when the  
chairman requested Peter Maitland to prepare material?

Mr. Candy: Oh I have no idea, no.

Mr. Shibley: You have no information?

Mr. Candy: No I have no information on that.

Mr. Shibley: Perhaps your counsel could undertake  
to ascertain the date upon which Mr. Gathercole asked ~~Mr.~~  
Peter Maitland to prepare material. You went over this  
material did you, Mr. Candy?

Mr. Candy: Yes.

Mr. Shibley: And again part of the material  
is, how was Canada Square chosen, that was one of the  
topics to be embraced by this material. Is that correct?

Mr. Candy: Yes that seems to be one of the  
major ~~is the~~.

Mr. Shibley: Also, can you assist us as to  
whether it was the chairman who posed the various questions  
that were covered by this memorandum?

Mr. Candy: I have no idea of that because I  
never talked to the chairman about it. The only person I  
talked to was Peter, and he brought it over to have me look  
at it and see ~~what I thought of it~~ what I thought of it.

Mr. Shibley: All right. Again perhaps the



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C.B.

(Mr. Shibley)

counsel for Hydro might inquire as to who formulated the questions that are contained in this memorandum, which appears to have been the result of a request of the chairman to Peter Maitland.

Mr. McCallum: Mr. Chairman, I think we can tell you now, but we'll check it up. We believe that Peter Maitland was acting as the devil's advocate and was trying to make questions and then suggest answers, and the questions that he made are those that are here on this exhibit, ~~and~~ we'll make certain and reconfirm that as soon as we can get a hold of Peter Maitland.

Mr. Shibley: I don't want to dwell on it now. We'll wait to see what information Hydro come up with in that respect.

I just want to finish with you, Mr. Candy, with respect to the meetings you held with Mr. Fleck in the spring of 1973. I note that on March 27, you had a meeting with Mr. Fleck at the Parliament Buildings, is that correct?

Mr. Candy: Yes.

Mr. Shibley: And in attendance was a Mr. Coles.

Mr. Candy: Yes.

Mr. Shibley: Who is Mr. Coles?

Mr. Candy: He is the secretary-treasurer of Canada Square.

Mr. Shibley: So that on the <sup>2</sup>/<sub>27</sub>th of March there was a three-way meeting between yourself, Mr. Coles of Canada Square and Mr. Fleck?

Mr. Candy: That is correct.





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C.B.

Mr. Shibley: Was this the first meeting you were in attendance at, at which any representative of Canada Square participated in a meeting with ~~Mr.~~ Fleck?

Mr. Candy: Yes, as far as I know.

Mr. Shibley: What was the subject of your meeting on that occasion?

Mr. Candy: This was the period when everything seemed to be hitting the fan, ~~and~~ there was a lot of stuff in the press and I think this was the time when Mr. Nixon released that press release of his in which he had all the figures showing the amounts of money that Canada Square were supposedly going to make out of this thing. That was the reason ~~for~~ Mr. Coles being there as well. The purpose of that was Mr. Fleck wanted to get some information with respect to how accurate that statement was and what could be put together ~~into~~ as a rebuttal to that statement.

Mr. Shibley: Yes. Mr. Coles is a financial man is he not?

Mr. Candy: Yes.

Mr. Shibley: With the Canada Square organization?

Mr. Candy: Yes.

Mr. Shibley: So that it would be he who would be the person who could best provide the financial information which Mr. Fleck was seeking. Is that correct?

Mr. Candy: That's right.

Mr. Shibley: Quite apart from a discussion of the financial aspects of the transaction, was there any other content of the meeting of March 27?

Mr. Candy: No. I think that was the only thing, *the financial aspect*

Mr. Shibley: All right. And this was to inform Mr. Fleck as to ~~the~~ matters that had been the subject of much press at that time?







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DT

(Mr. Candy)

~~He wanted~~ information and, as I recall, the meeting on the fifth was to take him that information, to provide him with the information that he had asked for on the 27th.

Mr. Shibley: Now, by this time, in April of 1973, had you yet supplemented or varied the information you were providing to Mr. Fleck as outlined in your November 15 memorandum?

Mr. Candy: You mean in written form or are you talking about this escalation?

Mr. Shibley: Well, I am talking about in any respect, I am concerned to know for example whether by this time Mr. Fleck was at last made aware of the fact that Ellis-Don had originally submitted a proposal on the basis of a \$26 per square foot building? Had you yet told him that?

Mr. Candy: I don't think so, and the reason I didn't bring this up was I never felt that was significant. I felt that with Ellis-Don, using the \$30 figure -- now, mind you, when Ellis-Don was in here the other day and talked about his figure being a construction cost, this was something that kind of shocked all of us and up to that time this, to us, had been a cost of the building complete, so that in using the higher figure it was in his interest rather than in ours to do that and reduce the amount of pro-rating that was required.

Mr. Shibley: But Mr. Fleck was led to believe by the November 15 memorandum, and I am taking from your last answer ~~and~~ continued in the ~~written~~ belief down to April 6 of 1973, that Ellis-Don was high because they had tendered on the \$30 per square foot basis, and you had yet to tell him that that had not been their original proposal. Is that so?

Mr. Candy: Yes, that's so, that's correct.

Mr. Shibley: So that from where he sat, he could look at the resumes provided to him and conclude - well, whatever might have been the unhappiness of Ellis-Don, they shouldn't have been unhappy because they weren't the low bidder anyway, according to the material Hydro are providing ~~him~~ *him*.





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Mr. Candy: That's right and this was our understanding of the figures supplied to us by Ellis-Don. That's why <sup>in</sup> my memorandum of ~~February~~ February 2nd, and I went back to him.

Mr. Shibley: But, Mr. Candy, you asked Ellis-Don to put in figures of \$28 and \$30, and then in the comparative schedule, the only figures that you provided to the Premier's office was that as for a \$30 per square foot building.

Mr. Candy: Yes.

Mr. Shibley: I see.

Mr. Candy: You are talking now in the ~~first~~ column where we had the submitted figure and then we had the pro-rated figure.

Mr. Shibley: That's right.

Mr. Candy: Is that what you are talking about?

Mr. Shibley: I am talking about the submitted figure for Ellis-Don that you presented to Mr. Fleck was a \$30 per square foot figure.

Mr. Candy: That's right.

Mr. Shibley: And you never did tell him, at least ~~not~~ as late as April 6th you had yet to tell him, that the ~~original~~ submission by Ellis-Don was at a \$26 per square foot basis, and at a lower rental than any of the other developers.

Mr. Candy: That's correct, because I considered that in the information that I had got in a written form from Ellis-Don subsequent to putting in his proposal that I was quite justified in using his revised prices which I had asked for.

Mr. Shibley: My only point, Mr. Candy, is that you relaxed Mr. Fleck's vigilance or review of the Ellis-Don complaint by presenting him with the figures ~~based~~ based on a \$30 per square foot building.

Mr. Candy: Oh, I see, yes, it could be --

Mr. Shibley: Yes.

Mr. Candy: But not intentionally.

Mr. Shibley: Well, it may not have been intentional, but I am ~~try~~ trying to establish what must have been in Mr. Fleck's mind when he was attempting to assess whether there was any

1136-1-68



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B.A.

H-1136-1

(Mr. Shibley)

~~with any~~ substance to the Ellis-Don complaint.

Mr. Candy: Oh, I see, yes.

Mr. Shibley: Did you have anything to do with the ~~any~~ preparation of the letter of April 25, 1973, from Mr. Gathercole to the Premier?

Mr. Candy: No.

Mr. Shibley: You didn't contribute to its contents?

Mr. Candy: No.

Mr. Shibley: Do you know where the information set forth in that letter was prepared, or did Mr. Gathercole prepare it himself?

Mr. Candy: My understanding was that he prepared it, I'm not sure.

Mr. Shibley: Mr. Chairman, subject to the answers that I might get referable to the December 7, 1972, document, I don't have any further questions of Mr. Candy.

Mr. Chairman: Do any other members have any other questions of Mr. Candy? Thank you very much, Mr. Candy.

Mr. Shibley: I would like to recall Mrs. Shuttleworth, please.

Mr. Chairman: Mrs. Shuttleworth, when you were here and gave evidence previously you were sworn at that time. That oath is still effective.

Mr. Shibley: Mrs. Shuttleworth, I have already alerted you before your attendance today to the circumstance that Mr. Smith, in giving his evidence as to the circumstances surrounding the making of his call to Mr. Manthorpe, made reference to the fact that one of the things that had happened at the time was that you had clipped a newspaper article prepared by Mr. Manthorpe, referable to Fidinam, and had brought ~~the~~ the article to his attention, and I think, implicit in what he was



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(Mr. Shibley)

saying was that you were pointing to that as the sort of thing he might consider doing, namely, effecting a communication with Mr. Manthorpe to start a press investigation under way.

Have you considered Mr. Smith's evidence in that respect?

Mrs. Shuttleworth: Yes, I have.

Mr. Shibley: In that connection, have you been shown the whole of the articles during the month of November, from November 2, 1972, on and into December of 1972, written by Mr. Manthorpe referable to Fidinam?

Mrs. Shuttleworth: Yes, we did that before this session.

Mr. Shibley: Yes. Have you been able to identify from the review of each of those articles which article it was and placed before Mr. Smith?

Mrs. Shuttleworth: Yes I have been.

Mr. Shibley: What was the article in question?

Mrs. Shuttleworth: It is an <sup>ar</sup> article with the

sub heading, "MPP wants investigation" and heading "Sargent Weeks to stop Fidinam's deal with WGB", byline, Jonathan Manthorpe.

Mr. Shibley: <sup>This</sup> ~~This~~ is an article dated November 3, 1972?

Mrs. Shuttleworth: Yes.

Mr. Shibley: Now, you have reviewed the content of that article with care, have you?

Mrs. Shuttleworth: Yes, I have

Mr. Shibley: And are you absolutely certain that this is the article that you clipped and put in front of Mr. Smith?

Mrs. Shuttleworth: Yes, I am.

Mr. Shibley: By reason of its content?

Mrs. Shuttleworth: Both by reason of its content and its size.

Mr. Shibley: I remember you asked to have the actual set-up of the article reproduced so that that would



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assist you also, and now that you have that does that further confirm your earlier identification of the article?

Mrs. Shuttleworth: Yes, the only thing that does come to my mind, I did indicate to you that I knew it was at least a three column story in the newspaper that we receive in London, the exact set-up might be slightly different than the one here, in ~~London~~ Toronto, but this set-up is of a nature that I recall.

~~Now, the set-up and the way it was set up in the newspaper was a three column story in the newspaper that we receive in London, the exact set-up might be slightly different than the one here, in London Toronto, but this set-up is of a nature that I recall.~~

(Tape H-1136 follows)





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CA

H-1137-1

~~(Mr. Shibley: Now let's)~~

~~What was the article about?~~

~~Mr. Shibley: Yes, I did.~~

~~Mr. Shibley: All right. Without bothering you to single~~

Mr. Shibley: And did you also identify key words in the article?

Mrs. Shuttleworth: Yes, I did.

Mr. Shibley: All right. Without bothering you to single them out, you are satisfied that from key words you spotted and the content generally, the heading, and so on, that this was the article in question?

Mrs. Shuttleworth: That is correct, Mr. Shibley.

Mr. Shibley: All right, then, Mrs. Shuttleworth, do I take it that you clipped the story on the day of its publication?

Mrs. Shuttleworth: Yes, that is right.

Mr. Shibley: And would it have been published on the 3rd? Was it from the London paper you clipped it?

Mrs. Shuttleworth: No. The Globe and Mail.

Mr. Shibley: It was the Globe and Mail. All right. And you clipped the Globe and Mail paper on the 3rd. Was it on the same day that you brought it to Mr. Smith's attention?

Mrs. Shuttleworth: Yes, I did.

Mr. Shibley: Now, what discussion occurred as between you and Mr. Smith in respect of the article?

Mrs. Shuttleworth: I gave him the article and made comment that I wished the Globe and Mail would do an investigation on the Hydro contract.

Mr. Shibley: Why did you make that comment to him? Had it been the subject of discussion between you?

Mrs. Shuttleworth: No, it never had, but we were finding that we couldn't learn anything further on how this contract was being let. This was the first major article that I had seen the Globe and Mail do in which they uncovered a ticklish situation with the government and I thought that that type of an expose was very needed in our society.



H-1137-2

Mr. Shibley: All right. What did you say to Mr. Smith then? Can you be precise?

Mrs. Shuttleworth: I said that I wished the Globe would investigate Hydro. I am not sure if I mentioned at that time perhaps we should give Jonathan Manthorpe a call, though I feel I did. Mr. Smith didn't make any comment. He just read the article. I didn't really count on ~~me~~ his ever doing it.

Mr. Shibley: All right. Then was the article left on his desk?

Mrs. Shuttleworth: Yes, it was left on his desk for some considerable time. Occasionally, he would pick it up and finger it. He'd look at me and say, "Do you think we should call Manthorpe?" And I'd say, "Oh, you know my answer to that, but that is your decision because it is a very major one".

Mr. Shibley: When you say "for some considerable time" over what period of time are you talking?

Mrs. Shuttleworth: Two to three weeks, Mr. Shibley.

Mr. Shibley: Yes. And did Mr. Smith ever communicate to you the fact that he had called Mr. Manthorpe?

Mrs. Shuttleworth: Yes, he did.

Mr. Shibley: And what was the occasion of that communication?

Mrs. Shuttleworth: He returned from Toronto and said, "Well, I finally did it. I called Manthorpe yesterday." And I remember being extremely pleased.

Mr. Shibley: And you realize you've ~~got~~<sup>brought</sup> all this down upon us!

All right. So he came back from Toronto and said he had called Manthorpe. When you said two or three weeks, Mrs. Shuttleworth, would it be possible that the period of delay was more than three weeks?

Mrs. Shuttleworth: I'd have to go back in retrospect. It was some time before the matter came up in the House; several weeks, say.

Mr. Shibley: You mean several weeks after he told you?

Mrs. Shuttleworth: No, no.

Mr. Shibley: I'm sorry ~~very~~



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H-1137-3

Mrs. Shuttleworth: Oh ~~and~~

Mr. Shibley: After he told you he'd placed the call that the matter came up in the House?

Mrs. Shuttleworth: The matter came up in the House subsequent to that, yes.

Mr. Shibley: I want to be clear on this. The matter was raised in the Legislature subsequent in point of time to Mr. Smith telling you that he had placed the call to Mr. Manthorpe?

Mrs. Shuttleworth: That is my feeling, yes.

Mr. Shibley: Yes, so that ~~and~~

Mrs. Shuttleworth: I don't know the dates, just off-hand, when it actually was raised

~~Mrs. Shibley: How Mr. Shibley tabled certain questions in the House on December 1.~~

H-1138-1 follows





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M.F.

H - 1138 - 1

~~Mrs. Shuttleworth: I don't know the date off hand when it actually was raised.~~

Mr. Shibley: Now, Mr. Nixon tabled certain questions in the House on December 1st ~~and~~ I might tell members of the committee now that I have had the clerk make a check of the press clipping service available to government, and you are probably ~~more~~ familiar than I with their ~~ability~~ to check and cross-check ~~and~~ His information to me is that there was no press report of the Nixon questions in the House prior to November 4th. I am sorry, December 4th, 1972.

So that what you are saying to this committee, I gather, Mrs. Shuttleworth, is that it was it was before there was any publicity referable to the Nixon ~~questions~~ in the House that Mr. Smith placed his call to Mr. Manthorpe?

Mrs. Shuttleworth: That is correct. If we had known it was to be brought up in the House I think perhaps the reaction would have been different; we would not have contacted the Globe. As it stood, it seemed there was no other way to uncover whatever there was.

Mr. Shibley: So that putting that answer in context, you are saying that as at the time Smith told you he had called Mr. Manthorpe, there had been no other indication of any other effort by anyone to effect an investigation into the Hydro head office building?

Mrs. Shuttleworth: That is correct. Our only previous attempt had been ~~the~~ letter to Mr. Seguin. It had gone unanswered. That seemed like the last avenue in those channels.

Mr. Shibley: All right. Now you said two to three weeks after the article; that would place it around November 24th?

Mrs. Shuttleworth: That does sound reasonable, yes.

Mr. Shibley: So your best estimate of the time Mr. Smith advised you that he had placed his call to Mr. Manthorpe would be approximately November 24th?

Mrs. Shuttleworth: Yes.



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H - 1138 - 2

Mr. Shibley: Can we take it, then, that your best recollection is that that call was placed within the month of November, 1972?

Mrs. Shuttleworth: Yes.

Mr. Shibley: I think, Mr. Chairman, that the newspaper article should be made the next exhibit.

Mr. Chairman: I believe it is 183. Does anybody want to challenge that numbering?

Mr. Shibley: While I have you here, Mrs. Shuttleworth, did your office receive any communication ~~from~~ of any nature whatsoever from any source, or a copy of any correspondence, as between any other two people referable to the head office building, other than what has already been produced to this committee?

Mrs. Shuttleworth: No, we did not.

Mr. Shibley: I have no further questions.

Mr. Chairman: Anybody else any questions of Mrs. Shuttleworth? If not, Mrs. Shuttleworth, thank you very much for your return visit.

Mr. Shibley: I call Mr. Barnicke.

JOSEPH JOHN BARNICKE, Sworn.

Mr. Shibley: Mr. Barnicke, what is your occupation?

Mr. Barnicke: Real estate broker.

Mr. Shibley: And you reside in the city of Toronto?

Mr. Barnicke: Yes.

Mr. Shibley: I want to produce to you two documents, the first being a letter dated July 14th, 1972, being a letter from Mr. Smith to Mr. Cronyn, exhibit 175, and also the newspaper article published in the Globe and Mail on April 30th, 1973, being exhibit 172, ~~and dealing with the newspaper article first,~~ -----

Tape H - 1139 follows



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DT

(Mr. Shibley)

~~1972 being a letter published in 1971 and dealing with the newspaper~~  
~~article first~~, Mr. Barnicke, on column one, about half-way down  
the page, do you notice under the heading: "Told to keep  
~~mouth~~ mouth shut..."? and then skipping a few paragraphs, it  
starts off: "An investigation into the three-year-old affair has  
revealed:" Are you with me yet?

Mr. Barnicke: How far are you down, sir?

Mr. Shibley: I am about half-way down the page  
on the first column.

Mr. Barnicke: Oh, yes. I am with you now.

Mr. Shibley: "An investigation into the three-year-  
old affair has revealed: A senior executive of one of the three  
~~was~~ unsuccessful firms that bid on the project said he was called  
several weeks ago by a source close to the Ontario Cabinet and high  
in the Progressive Conservative Party" ~~and~~ I am just stopping  
there, Mr. Barnicke. I would like your own comments as to whether  
you fit the description of being someone close to the Ontario  
Cabinet and high in the Progressive Conservative Party.

Mr. Barnicke: I am a member of the riding. My  
riding is St. George's. I submit my \$2 a year. I have been to  
one meeting <sup>at</sup> ~~of~~ which Allan Lawrence was renominated. I have been  
to no other meetings. I am no member of any of the Conservative  
Party or the organizations other than that. I am the president  
of the Progressive Conservative Businessmen's Club of Metropolitan  
Toronto which ~~is~~ primarily ~~a~~ was a large luncheon club and it  
declined somewhat. It is coming back strong and I am president  
of that. \* I have been president of it for one year and I  
have agreed to take on the chore for another year.

Mr. Shibley: Now, are you in any sense close to the  
Cabinet?

Mr. Barnicke: No.

Mr. Shibley: Have you ever had anything to do with  
any minister of the provincial government?

Mr. Barnicke: I would say I know cabinet ministers,  
but in that context, no.



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Mr. Shibley: Would you consider yourself within the description of someone close to the Cabinet and high in the Progressive Conservative Party?

Mr. Barnicke: I would say no.

Mr. Shibley: And then the article goes on and says: "and told the Globe and Mail was investigating. 'I was told to keep my mouth shut or I would never get another government job.'" And just so that your information is complete, if you look at the letter of July 14 which is exhibit 175, on the second page, Mr. Barnicke, it says: "I talked to Joe Barnicke last week and he suggested that I might jeopardize any ~~for~~ future dealings with the government if I stirred anything ~~was~~ up on this <sup>job</sup> and I might be wise to take Joe's advice and I would appreciate your comments, but I don't want to put you in any position of embarrassment at all."

Now, having given you the whole of the documentary evidence which in any way effects you, or might effect you, Mr. Barnicke, first of all did you have a conversation with Mr. Smith on or about July 13 or 14 of 1972?

Mr. Barnicke: When the Globe and Mail telephoned me a couple of weeks ago, I denied having a conversation with Mr. Smith and as they pursued about the hearing, I did recall a conversation and it was so short and brief that to me it was negligent. ~~negligent~~ He phoned me and he could have telephoned me between five months ago or 18 months ago, that's how relevant the conversation could be.

(H-1140 to follow)





H-1140-1

(Mr. Barnicke)

~~And he could have telephoned me between five months ago or eighteen months ago. That is how relevant the conversation could be.~~ It was none of my concern and I'd let it go at that. So I cannot acknowledge any date.

Mr. Shibley: ~~Excuse me~~ <sup>that</sup> I noticed in the article, I believe it is ~~in~~ from the Globe ~~it~~ <sup>- or is it the Star? -</sup> it says "Questions draw barrage of blue language." Joe Barnicke was not amused; ~~that~~ you initially took the view with them that you hadn't had any such conversation at all. It was that remote in your thinking?

Mr. Barnicke: No, that ~~visit~~ <sup>when</sup> was ~~the~~ <sup>phoned</sup> the Globe ~~and~~ <sup>and</sup> I summarized my conversation ~~that~~ it went something like this; This is my telephone conversation from Mr. Smith. He phoned me. I made no phone calls. I would assume the conversation might have taken a minute, maybe a minute and a half. "It was sort of about this Hydro job." And I said "What Hydro job?"

Mr. Shibley: This is Mr. Smith talking to you now?

Mr. Barnicke: Yes. And he said "Well, it is up for tender". I said, "Well, so what?". So he said "Well, I want the job". And I think I said something like this "Well, why don't you be low bidder?" And then he said "Well, I don't think I am going to get it; somebody else is going to get the job". And I said "Who?". He said, "I think Moog has got the leading edge". I said "Well, why don't you go joint venture with him?" And he said "I don't think I can". And I said: "Well, if that is the ground rules why don't you forget about it and go on to something else?" That is my recollection <sup>ion</sup> of the telephone call. ~~And~~ <sup>What</sup> where all this other balderdash came from I don't know.

Mr. Shibley: I see. And I take it that I ~~am~~ <sup>am</sup>

Mr. Barnicke: Pardon me. I relayed that conversation on to the Globe and the Star. It was when a reporter came back and decided ~~in~~ he wanted to know all about my personal background and personal history, and the company business, that I ~~thought maybe~~ <sup>thought</sup> maybe I shouldn't be quite as cooperative. I was more than happy, as I said, to discuss completely the telephone call.



H-1140-2

Mr. Shibley: That's fine. Now, Mr. Barnicke, have you told us as completely as you can everything that was said in the telephone conversation between yourself and Mr. Smith?

Mr. Barnicke: Yes. As I say, any interpretation he might have taken out of it, I don't know. I can't say, because I told the Globe initially that I did not have a phone call with Mr. Smith, ~~and~~ <sup>as</sup> then they kept talking about the hearings ~~and~~ it dawned on me. So ~~is~~ that was about as much significance I had on the call.

Mr. Shibley: Of course, and the Globe was putting it to you in the context of had you called him, and had you suggested that he might jeopardize his future dealings with the government if ~~he~~ <sup>he</sup> stirred up anything. And you had no such conversation with Mr. Smith?

Mr. Barnicke: No.

Mr. Shibley: You said nothing to him which in any way could have been interpreted by him as meaning that if he stirred anything up on the job it might jeopardize any future dealings with the government?

Mr. Barnicke: In no way. I would have no right to say that.

Mr. Shibley: And neither did you say to him "Keep your mouth shut or you will never get another government job" as per the article of April 30?

Mr. Barnicke: No.

Mr. Shibley: Nor anything that could have been interpreted by him as meaning that?

Mr. Barnicke: No. As I say, I would say that to anybody when he asked me a question and ~~asked~~ I asked him what the problems were, I would say the same thing to anybody else. If you are going to lose a job, why milk a dry cow? It is hopeless, so go on to something else.

Mr. Shibley: When you say you'd say the same thing, You mean the same as you have outlined in detail earlier as being what you said to Smith?

Mr. Barnicke: Yes.



H-1140-3

Mr. Shibley: You never did say anything to Smith that would lead him to believe, or translate what you said to mean, "Keep your mouth shut or you will never get another government job"?

Mr. Barnicke: In no way.

Mr. Shibley: All right. I have no further questions,  
Mr. Chairman.

Mr. Chairman: Anybody <sup>Rowe</sup> else ~~any~~ other questions of  
Mr. Barnicke?

Mr. Gaunt: Mr. Chairman, just one brief question.

Mr. Barnicke, do you have any other information which you might consider pertinent to this hearing which hasn't been brought forward to this point?

Mr. Barnicke: No.

Mr. Gaunt: Do you have any other documents, or do you have any knowledge of any other documents which may be pertinent to this hearing which haven't been brought forward, ~~asked~~ <sup>asked</sup> appropos this point?

Mr. Barnicke: No, none.

Mr. Shibley: I should have asked you, Mr. Barnicke, the same letter of July 14 starts <sup>off</sup> ~~and~~ if you look at page 1,

"I talked to Ernie Jackson about the Hydro job and he arranged a meeting with George Gathercole".

Did you ever have any discussion with Ernie Jackson referable to Ellis-Don's attempts to get this job?

~~Mr. Barnicke: No.~~

H-1141-1 follows





July 10/73

3:45 - 3:50 pm

C.B.

~~(Mr. Deans)~~

~~to Mr. Deans attempt to get this job~~

Mr. Barnicke: No.

Mr. Deans: Mr. Chairman.

Mr. Chairman: Yes, Mr. Deans.

Mr. Deans: Mr. Barnicke what is your association with Mr. Smith?

Mr. Barnicke: I think I have met MR. Smith once. If he was in this room I wouldn't know him.

Mr. Deans: You hadn't had any previous calls from Mr. Smith about other work that he was involved in?

Mr. Barnick<sup>e</sup>: No.

Mr. Deans: Any idea why Mr Smith called you?

Mr. Barnicke: It ~~seemed~~ appeared he was calling everybody.

Mr. Deans: That is not on the record.

Mr. Barnicke: Well I don't know why.

Mr. Deans: You don't know why. Can you really recall your actual conversation with Mr. Smith?

Mr. Barnicke No, as I said it was so insignificant that I had forgot about it when the Globe called. So that's the best of my recollection of the conversation. I know it was brief and I'm under oath and would say ~~fact~~

Mr. Deans: No, no I'm not questioning ~~fact~~

Mr. Barnicke: in answering the question that's about the best I can about ~~the~~ the conversation, it was a short conversation.

Mr. Deans: I'm not questioning the fact that you are telling the truth as you can recall it. I just



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3:45 - 3:50 pm

C.B.

(Mr. DEans)

wonder what response, Mr. Barnicke, would you make if a person said to you, "Do you think it is worth my while pursuing this any further, should I try to get somebody else to make ~~inroads~~ inroads"; what would be your reaction to that kind of a question?

Mr. Barnicke: Well I would say if he wants to phone anybody he can. He might as well start from the top to the bottom. I can't understand what you ~~are~~ are asking, how would I ~~be involved~~ <sup>BE INVOLVED?</sup>

Mr. Deans: What I'm getting at is this. You wouldn't, even in an off-hand way, suggest that "it wouldn't likely do you much good to create a fuss now that the thing seems to be over, especially if you want to go on dealing with these people."

Mr. Barnicke: No.

Mr. Deans: That wouldn't be something that you might offer by way of advice if you were asked?

Mr. Barnicke: If a person suggests to me that he's lost a deal, I would just say "why don't you forget about it, go on to something else".

Mr. Deans: Okay.

Mr. Chairman: Mr. Glen Hodgson.

Mr. G. Hodgson: Mr. Barnicke are you experienced in managing buildings?

Mr. Barnicke: I would say no in the sense of property management. We are agents for principals, <sup>als</sup> we are not principals <sup>als</sup> ourselves. We are primarily consultants to developers and leasing agents of commercial properties; but we are not in management.



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C.B.

Mr. <sup>R.</sup>G. Hodgson: Mr. Smith, when he called you, did he discuss the possibility of you managing the Hydro building for him if he got the contract?

Mr. Barnicke: No.

Mr. <sup>R.</sup>G. Hodgson: Thank you.

Mr. Chairman: You had another question Mr. Gaunt?

Mr. Gaunt: Yes, Mr. Chairman, I believe in Mr. Smith's evidence he indicated the reason he called you was because "you knew the Toronto market," I think that's a fair statement on what Mr. Smith said. Do you feel that you would fit that description?

Mr. Barnicke: Well any active broker in the market would know the market.

Mr. Gaunt: So you could be one of many people in Toronto who would fit that particular description?

Mr. Barnick<sup>E</sup>: I would say, as far as brokers are concerned, there are a lot of able salesmen around, I would say ten major brokers would know the market very well. This type of a market; it is not a housing market.

~~Mr. Gaunt: So you could be one of many people in Toronto who would fit that particular description?~~  
~~you know the Toronto market ....~~

H1142 to follow



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B.A.

H-1142-1

{Mr.--Gau

Mr. Gaunt: So that other than the fact that you knew the Toronto market, on Mr. Smith's admission and on your own admission, you know of no other reason why Mr. Smith would call you.

Mr. Barnicke: I don't.

Mr. Chairman: Mr. Barnicke, earlier I believe you said the call was "negligent." I think you probably meant "negligible," is that right in the sense it was?

Mr. Barnicke: Yes.

Mr. Chairman : Any other questions? Thank you very much, Mr. Barnicke, for being with us.

Mr. Brownlie: Mr. Chairman, I would like to say something at this point, if I could, ~~Not~~ in relation to Mr. Barnicke but in relation to my client, Mr. Smith, in relation to his connection in this telephone call ~~from~~ <sup>with</sup> Mr. Barnicke. And it is prompted in part by Mr. Shibley's reference in his question to Mr. Barnicke, whether he could recall a telephone conversation on the 14th or the 13th July. In the two-star and the four-star edition of the Toronto Star of ~~the~~ June 28th, an article appeared immediately after I had tried to raise with this committee the distinction between, on the one hand, threat and warning, and on the other hand, between the chronology of the telephone call to Mr. Barnicke, and the meeting with Mr. Gathercole. The Toronto Star ~~it~~ came out with an article ~~it~~ in two separate papers, which in their - I won't bother to bore the committee with them - but in their fourth and fifth paragraphs, first of all, suggested that Mr. Smith got in touch with Jackson. Jackson arranged ~~the~~ meeting with Gathercole, ~~and~~ then it goes on to say: "Then, unhappy with the results of the meeting with Gathercole, he went to Barnicke." ~~and~~ <sup>now</sup> they printed on the front page, they photocopied the second ~~and~~ page of that same letter, which, in its terms, suggested that he had spoken





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(Mr. Brownlie)

to Barnicke a week earlier. He said, "I talked to Joe Barnicke last week " but the suggestion is that he went to Gathercole, he was unhappy with the results and he went off and tried to get some influence through Barnicke, ~~and~~ then it suggests, in the next two paragraphs, it brings up the word "threat" again. And then it says that they telephoned the Star, that is, telephoned Barnicke, and they quote him as saying that he might have ~~said~~ said something which Smith ~~misinterpret~~ misinterpreted as a threat, ~~and~~ I would, at this point, like to make clear, that my understanding of the events so far makes it clear that Mr. Barnicke was spoken to prior to his meeting with Gathercole, ~~that~~ that is point number one; and point number two, that Mr. Barnicke has not said here anything which suggests that there was a threat by him. That is all I want to say. But this has been a problem throughout. I didn't raise this thing the last time, but there have been press reports in relation to my client which have been very troublesome to me, ~~and~~ I realise that this committee has been concerned by some of the things that have been said, but where a newspaper can write an article like this, with the very copy of the letter right on the front page, and can still misinterpret the chronology, it troubles me, ~~and~~ I ask the committee to, when they are considering the position my ~~client~~ <sup>do</sup> client is in, to recognize what this kind of newspaper article can ~~do~~ to a man in his business.

Mr. Chairman: Thank you very much, Mr. Brownlie, for those comments. Mr. Austin, so that you may send the bill to Mr. Barnicke, I ~~will~~ introduce you and put your name on the record. Mr. Austin was here to represent ~~Mr. Barnicke~~ Barnicke.

Mr. Austin: Thank you Mr. Chairman.

Mr. McCallum: You can send the finder's fee ~~on~~ up to MacBeth.

Mr. Barnicke: I thought <sup>in</sup> the submissions that were sent to me ~~had~~ discussed <sup>about</sup> who was going to pay the lawyers, ~~and~~ there was no conclusion meant there.



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H-1142-3

(Mr. McCallum)

Am I stuck or are you, Mr. Chairman?

Mr. Chairman: I thought I had drawn the conclusion, Mr. Barnicke, ~~you~~ you are here just to help the committee. Now, if you want to bring your lawyer with you, that's up to you, but we are glad to see both of you. Mr. Shibley.

Mr. Shibley: This may compound confusion but I am going to recall Mrs. Shuttleworth on a point I overlooked asking her about.

~~XXXXXXXXXXXXXXXXXXXX~~

Mr. Chairman: Mrs. Shuttleworth, I am getting a little bit suspicious ~~about~~ of ~~her~~

Mr. Brownlie: Should I leave, Mr. Chairman?

Mr. Chairman: I don't know. Mr. Shibley.

Mr. Shibley: ~~Mr.~~ Mr. Brownlie was pressing me to not call this witness until tomorrow, which would have required <sup>her</sup> ~~an~~ overnight stay in Toronto.

Mr. Brownlie: There is no honour among counsel any more.

Mr. Shibley: Mrs. Shuttleworth, Mr. Smith gave somewhat conflicting evidence as to his recollection ~~regarding~~  
~~the following~~

(Tape H-1143 follows)





July 10, 1973  
3:55-4:00 p.m.  
M.F.

H - 1143 - 1

(Mr. Shibley)

respecting the timing of his call from Mr. Cronyn and his call to Mr. Manthorpe, and, as I say, I think on his last attendance he said that Mr. Smith called Manthorpe before Mr. Cronyn had called him.

Earlier he had given the converse of that evidence.

Are you in any way able to assist this committee as to the sequence of those calls?

Mrs. Shuttleworth: It is my feeling that the call from Mr. Cronyn came subsequent to the call placed to Mr. Manthorpe.

Mr. Shibley: Yes. Now you have a feeling about that, does that feeling emanate from some course of dealing or ~~business~~

Mrs. Shuttleworth: Mr. Bell asked me this question just a moment ago, I couldn't be mistaken.

Mr. Shibley: Yes, I sent him down to inquire of you and that is why I said I think we may be compounding confusion, but I feel it is my duty to the committee to develop your evidence.

Mrs. Shuttleworth: Mr. Smith made the comment "I wonder how Mr. Cronyn would react if he knew I had already been in touch with the Globe,". Therefore, chronologically speaking, I have to conclude the calls from the Globe were previous to the call from Mr. Cronyn, but I cannot give you a date.

Mr. Shibley: It is because Mr. Smith said "I wonder how Mr. Cronyn would feel if he knew that I" ~~-----~~

Mrs. Shuttleworth: "I had called the Globe".

Mr. Shibley: "I had called the Globe" or "I had already called the Globe", it makes a material difference as you can see.

Mrs. Shuttleworth: I don't quite understand the difference.

Mr. Shibley: Well if he simply said "I wonder how Mr. Cronyn would feel if he knew I had called the Globe", it doesn't help us establish a sequence, because Mr. Cronyn could have called him and said "If you are interviewed, be factual, etc.", and then he calls the Globe and says "Well there, I hope Mr. Cronyn" ~~-----~~





H - 1143 - 1

Mrs. Shuttleworth: No, I had already called the Globe."

Mr. Shibley: You had called the Globe?

Mrs. Shuttleworth: Quoting Mr. Smith.

Mr. Shibley: Yes. That is what I want to know. Did he say "I wonder what Mr. Cronyn would say if he knew that I had already called the Globe" or "I wonder what Mr. Cronyn would say if he knew I called the Globe"?

Mrs. Shuttleworth: I can't swear to either statement, but my understanding of his statement, in whatever form he said it, meant that he had called Manthorpe previous to receiving the call from Mr. Cronyn.

Mr. Shibley: All right. Now might your understanding be incorrect in the sense that he was really saying "Go there, Mr. Cronyn, you have called me, and I have nevertheless called the Globe"?

Mrs. Shuttleworth: No.

Mr. Shibley: All right. So that as far as ~~this~~ the discussion you had with Smith, your interpretation of what he said was to the effect that he - well now, going back a moment, when did this conversation with Smith take place?

Mrs. Shuttleworth: The day of, or the day following, the call from Mr. Cronyn, very, very close in time.

Mr. Shibley: And when did that call come in?

Mrs. Shuttleworth: I can't give you that date. We have gone ~~through~~ through when we think it.

Mr. Shibley: Pardon?

Mrs. Shuttleworth: We have all gone through when we think it is, it is at the time that it came up in the Legislature, but I can't verify it any further than we have in the past.

Mr. Shibley: Had Mr. Smith received any earlier communications from someone high in the Progressive Conservative Party and ~~someone~~ close to the Cabinet ~~\_\_\_\_\_~~?

Tape H - 1144 follows



July 10/73

4:05 - 4:10 pm

C.B.

(Mr Walker)

~~so~~ going through your reference of the Cronyn call?  
I'm trying to recall your earlier evidence and I think at the time when you were here before you said you placed the call to Cronyn. Am I wrong or ~~is~~ right?

Mrs. Shuttleworth: You are right, ~~MR~~ Walker.

Mr. Walker: Then you placed the call and did you stay in the room? I think we had better get our calls right ~~in~~ here; I'm getting confused myself.

Mrs. Shuttleworth: Yes, the first call, the call that we have been speaking of just now; the call from Mr Cronyn re the Globe, Mr. Cronyn placed to Mr. Smith, I was not present when that call was taken.

Mr. Walker: When did you first come on the scene with respect to the call that Cronyn apparently made to Smith concerning the investigation of the Globe?

Mrs. Shuttleworth: As I said to Mr. Shibley, I would have heard of it that day or the next. Mr. Smith said "I received a call from Cronyn"; he could have said it that day, he could have said it the next day, but very close in time ~~and~~ following the call.

Mr. Walker: All right. Then, in between the time that you produced the exhibit 183, the newspaper article ~~in~~ which ~~the~~ features Mr. Sargent and the Fidinam matter, in between that time, which I believe was November 3, when it was produced in the newspaper, and two or three weeks later, is it your understanding that the matter of Hydro had only reference ~~s~~ to ~~MR~~ Smith occasionally fumbling or fiddling with the papers on his desk and trying to decide whether he should call or should not call Mr. Manthorpe? Was there anything else in that period?



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4:05 - 4:10 pm

C.B.

Mrs. Shuttleworth: I don't know of any other action that he took at that point in time. I don't know that there was any action left to us, ~~and~~ I'm sure that the debate going on in his mind, as we had discussed it, was <sup>that</sup> here is an issue that ~~we~~ we feel, is extremely wrong; there should be some way to bring it forth into public view. We don't have any way. Do you ~~take~~ take the chance of instigating some type of research into it on your own and take the chance of it affecting your ~~business~~ business, as it will in many forms, that would be contraversial? Being an idealist myself, I was hoping that the truth would out.

Mr. Walker: At any time during that period can you recall whether the name Cronyn or a telephone call from him for any purpose?

Mrs. Shuttleworth: During that period of time I have no recollection of a call from Mr. Cronyn.

Mr. Walker: Is it Mr SMith's practice to tell you of all the calls that he receives?

Mrs. Shuttleworth: Hardly.

Mr. Walker: Why is it <sup>that</sup> he told you of this particular one, from Cronyn, the one I'm referring to?

Mrs. Shuttleworth: Because I was very interested and involved in the dealings with the Hydro, ~~and~~ I also knew that he had, in fact, been in touch <sup>with</sup> a person from the Globe, that being Jonathan Manthorpe.

Mr. Walker: Was he able in any way to reference the telephone call from Cronyn when he spoke with you? Let me give you ~~an~~ <sup>few</sup> example, for instance if he had said "I got one five weeks ago" or "I got one yesterday," or "I just got a call," or "the other day I got a call" that would be, of course, a reference. Was he in any way able to offer any referencing of that call?



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4:05 - 4:10 pm  
C.B.

Mrs. Shuttleworth: I think I've commented on that, Mr Walker.

Mr. Walker: Well, please comment again; would you please, for me?

Mrs. Shuttleworth: I said I would have received the information that day or the day following to the best of my knowledge.

Mr. Walker: I'm not ~~sure~~ sure that entirely answers the question but I see the problem. Okay, thanks.

Mrs. Shuttleworth: You're welcome.

Mr. Shibley: Mrs. ~~S~~huttleworth, when you overheard the comment of Mr. Smith to Mr. McAuliffe on the occasion of the interview in London, did you identify

H 1146 to follow





July 10, 1973  
4.10-4.15 p.m.  
M.F.

H - 1146 - 1

(Mr. Shibley)

~~to Mr. Shibley: I would identify the entire phrase as~~  
~~the person to whom Mr. Smith was then referring~~  
when he said "someone high in the Conservative Party and close to the Cabinet called me and told me to keep quiet"; did you identify that person in your mind as Mr. Cronyn having regard for the fact that Mr. Smith had told you of the Cronyn call to him?

Mrs. Shuttleworth: I would identify the entire phrase as a reference to two people, one being Mr. Cronyn in the aspect of the call re the Globe; and Mr. Barnicke in reference to the discussion about not stirring things up.

Mr. Shibley: I see. Just taking them one at a time then, that with respect to the conversation that Mr. Smith had with Mr. McAuliffe in April, the person that you felt Smith had in mind was Mr. Cronyn, but that with respect to the call that Smith had placed to Manthorpe, the person you believe he had in mind was Mr. Barnicke?

Mrs. Shuttleworth: I do not know that he made such a statement to Mr. Manthorpe. ~~Mr. Shibley~~

Mr. Shibley: I see. But then, quite aside from that, I just want to pin down the one conversation that you overheard. You actually overheard Mr. Smith make an observation to Mr. McAuliffe in April, you remember you said you were shocked to think he would make it to a reporter, and on that occasion, Mr. Smith is reported to have said something like "I received a call from someone high in the Progressive Conservative Party,-----"

Mr. Brownlie: Close to the Cabinet.

Mr. Shibley: Was it just "close to the Cabinet"?

Thank you. "From someone close to the Cabinet"?

Mrs. Shuttleworth: I might say I did not at that time think of Mr. Barnicke. I knew he had had various counsel along this line, it is only in retrospect that I must feel that way.

Mr. Shibley: With respect to the comments made to



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M.F.

H - 1146 - 2

(Mr. Shibley)

McAuliffe in April of 1973, when he said, when Smith said,  
"I got a call from someone close to the Cabinet", was it Mr.  
Cronyn who came to mind?

Mrs. Shuttleworth: Mr. Cronyn came to mind, yes.

Mr. Shibley: And in respect of what conversation did  
Mr. Barnicke come to your mind?

Mrs. Shuttleworth: As per that last paragraph of the  
letter ~~-----~~

Mr. Shibley: Of the article?

Mr. Brownlie: Of the letter.

Mrs. Shuttleworth: No, I am speaking of the letter.

Mr. Shibley: Oh I am sorry, of the letter, yes.

Mrs. Shuttleworth: that would parallel the part of the  
phrase that says "don't ~~-----~~"

Mr. Shibley: I see. So that you had typed the letter  
from Smith to Cronyn, wherein there is reference made to what  
Mr. Barnicke says, is that correct?

Mrs. Shuttleworth: That is correct.

Mr. Shibley: So when you read the article you attributed  
that portion of the article to ~~him~~ what Mr. Barnicke is alleged by  
Mr. Smith in the letter to have said to him?

Mrs. Shuttleworth: Not immediately, Mr. Shibley.

Mr. Shibley: Later on?

Mrs. Shuttleworth: At a later time, yes.

Mr. Shibley: But with respect to that portion of the  
article that refers to someone high in the PC Party and close to  
Cabinet, you related that to the call from Mr. Cronyn? Is that  
correct?

Mrs. Shuttleworth: Close to the Cabinet, yes.

Mr. Shibley: Yes, all right, close to the Cabinet, because  
you had overheard Smith use that phrase? Beyond hearing him say  
he got a call from someone close to the Cabinet, what else did



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4.10-4.15 p.m.  
M.F.

H - 1146 - 3

(Mr. Shibley)

you overhear?

Mrs. Shuttleworth: At what time?

Mr. Shibley: At the time that he was speaking ~~me~~ to  
McAuliffe on their way out.

Mrs. Shuttleworth: I would just have to repeat the  
elements that I gave you in my last testimony. Do you wish me  
to do so?

Mr. Shibley: It would be helpful, it would refresh  
everyone's memory.

Mr. Brownlie: Would you like me to read it, Mr. Shibley?

Mrs. Shuttleworth: Thank you, Mr. Brownlie.

Mr. Brownlie: It is at page #791 - 1 from the June 27th  
testimony beginning at the top of the page, the afternoon session:

"Mr. Shibley: I want you to be clear on that, you  
overheard Mr. Smith say what, and would you not paraphrase it  
please and give your precise recollection as to the words used?"

~~Mr. Shibley: I want you to be clear on that, you~~

~~overheard Mr. Smith say what, and would you not paraphrase it~~

Tape H - 1147 follows





~~Mr. [illegible]~~ *Mr. [illegible]*

"Mr. Shibley: Yes.

" Mr. Shibley: The government would not be particularly pleased that <sup>the</sup> ~~the~~

Mr. Shibley: At what?

Do you want me to read more?

Mrs. Shattlemworth: No, sir.

Mrs. Shuttleworth: Yes. Me.

Mrs. Shuttleworth: Not specifically.

Mrs. Shuttleworth: There is not something. The matter

would have been discussed with his business associates. He commented to me on occasion, once or twice, that someone might have said "Watch your Ps and Qs", but only in a business context from



H-1147-2

(Mrs. Shuttleworth)

people totally unrelated to the entire issue.

Mr. Shibley: All right. Thank you.

Mr. Chairman: Mr. Newman.

Mr. W. Newman: Mr. Chairman, just one question.

Mrs. Shuttleworth, I believe you said a few moments ago that Mr. Smith sought counsel from various people over this matter, and ~~we have~~ had reference to perhaps ~~he~~ maybe Mr. Cronyn,

Mr. Barnicke, Mr. Jackson and Mr. Dillon. Were there others who were well known Conservatives, shall I go on and say that?

Mrs. Shuttleworth: I couldn't identify them in that way, no.

I know there were other gentlemen. I don't know who they were, and I ~~could~~ could not affiliated them with a party.

Mr. W. Newman: Anyone else directly connected with government that you can think of?

Mrs. Shuttleworth: No, sir.

Mr. Chairman: Mr. Renwick.

Mr. Renwick: I just have one question, Mr. Chairman.

Mrs. Shuttleworth, referring to Mr. Smith's return from Toronto when he made a reference in the latter part of November to having called Mr. Manthorpe, is there anything that you know of in the way of a diary notation or any other way in which, from your information, you can earmark the date of his return?

Mrs. Shuttleworth: Mr. Smith and I went thorough his entire diary yesterday, and there is no such notation.

Mr. Renwick: So that you can't help us to pinpoint that particular trip of Mr. Smith's to Toronto?

Mrs. Shuttleworth: No, I can't.

Mr. Renwick: Thank you.

Mr. H.G. Hodgson: Mr. Chairman. Mrs. Shuttleworth, the article in the Globe elicited the call to Mr. Manthorpe. Had it crossed anyone's mind to perhaps contact Mr. Sargent?

Mrs. Shuttleworth: No, it had not.

Mr. R.G. Hodgson: Or the Leader of the Opposition?

~~Mrs. Shuttleworth: I don't know.~~



July 10, 1973

4.20-4.25p.m.

B.A.

H-1148-1

~~(Mr. E. G. Hodgson)~~

~~Perhaps I should have said that.~~

~~Well, I should have said that.~~

~~Mr. E. G. Hodgson: The function of the committee~~

Mrs. Shuttleworth: No, sir,

Mr. Shibley: I would like to be more specific as to one person, Mrs. Shuttleworth. You know of no communication, oral or in writing, phone or otherwise, from Mr. Fleck to Mr. Smith during this period of time?

Mrs. Shuttleworth: No, sir, I did not know who Mr. Fleck was until this committee started.

Mr. Shibley: Right. Well, that's fine.

So I take it that at no time in any conversation <sup>up with you</sup>

Mrs. Shuttleworth: I have never heard Mr. Smith mention Mr. Fleck.

Mr. Shibley: Fine.

Mrs. Shuttleworth: Or anyone in our firm mention his name.

Mr. Shibley: Thank you.

Mr. Chairman: Thanks very much, Mrs. Shuttleworth. Although I enjoy seeing you there, I hope this is the last time.

Mrs. Shuttleworth: Thank you.

Mr. Chairman: Shall we take a little recess.

Mr. Shibley: Yes, please.

The committee took recess for ten minutes.

(Tape H-1149 follows)



July 10, 1973

4.40-445 p.m.

B.A.

H-1149-1

The Chairman (Mr. MacBeth) called the meeting to order.

Mr. Chairman: Mr. Manthorpe, if you would come forward; ~~and~~ while you are coming forward I would likewise remind you that you have been sworn previously and are still under oath as far as your evidence here is concerned.

Mr. Shibley: Mr. Manthorpe, I would <sup>first</sup> ~~like~~ like to clear up the conflict of evidence referable to the date on which you had your discussion with Mr. Candy and your discussion with Mr. Fleck in December of 1972.

Mr. Manthorpe: I only heard a little of Mr. Candy's evidence this morning. I heard him refer to his diary and say the interview ~~was~~ was on the 15th. ~~He~~ <sup>was</sup> thinking about it since I was last here, I ~~was~~ would concede that that was probably the date.

Would you like me to run through the sequence of ~~days~~?

Mr. Shibley: I don't know that it <sup>is</sup> ~~is~~ terribly important, but I gather that your earlier confusion as to dates emanated from the fact that the House rose on the 14th?

Mr. Manthorpe: I had a lot of difficulty getting an interview with Mr. Candy. There were a number of arrangements which he broke and the date, the 11th, stuck in my mind as I ~~stuck~~ <sup>stuck</sup> I said when I was here last. When I thought that I was going to get to him I spent some time preparing for that date. Mr. Candy cancelled it on that day but that week was a very bad week, there were a lot of late night sessions ~~and~~. In fact, I can recall now that when I went to see Mr. Candy on the 15th, I had been up all ~~the~~ night on an all-night session.

Mr. Shibley: You mean an all-night session of the House?

Mr. ~~Manthorpe~~ Manthorpe: Of the House.





July 10, 1973

4.40-4.45p.m.

B.A.

Mr. Shibley: And it wasn't a house of ill repute?

Mr. Renwick: *It's that* famous red light *on the House!*

Mr. Deans: It's not an 'in' house.

Mr. Manthorpe: ~~There~~ No judgment of mine is ~~any~~.

Mr. Shibley: In any event, Mr. Manthorpe, we can now have your evidence consistent with that of Mr. Candy that the interview with him took place on the 15th?

Mr. Manthorpe: Yes.

Mr. Shibley: Now, his diary ~~indicates~~ indicates that the first ~~appointment~~ *appointment* that he gave you was, he says, December 7th, although there is a reference on the 5th December, in his diary, for that day at 2 o'clock, ~~Manthorpe, Duffy, Globe and Mail~~ "Manthorpe, Duffy, Globe and Mail". *Globe* Just to help you along, on December 7th, 10 a.m. "Manthorpe, ~~Globe and Mail~~ (cancelled)" and on the 8th, again at 10 o'clock, "Manthorpe, Globe and Mail" and it's struck.

Mr. Manthorpe: That would be the 6th would be Wednesday Thursday, Friday?

Mr. Shibley: Yes, that's ~~right~~ *right* Wednesday, Thursday, Friday.

Mr. Manthorpe: And then the 11th, the Monday.

Mr. Shibley: On the 11th, another, "Mr. Manthorpe, Globe and Mail, Not ~~something~~ I will let him know" and it's ~~struck~~ struck, and finally, the entry, I believe, on the 15th.

Mr. Manthorpe: Yes.

Mr. Shibley: Now, ~~dealing~~ *with* those ~~entries~~ entries, can you assist the committee as to when you requested the appointment with Mr. Smith?

Mr. Manthorpe: With Mr. Smith?

Mr. Shibley: I'm sorry, with Mr. Candy.

Mr. Manthorpe: Well, as I think I said before, it was within a ~~maybe even the same day or within a day or two~~ of Mr. Smith's call to me which, as I said before, I would put in the last week of November.

Mr. Shibley: Right. So that within a day or two of



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4.40-4.45p.m.  
B.A.

(Mr. Shibley)

when you received Smith's call you called Candy?

Mr. Manthorpe: Yes.

Mr. Shibley: And did he give you an appointment at that time?

Mr. Manthorpe: Now, he may not have done because I remember that we had some difficulty in finding a date when we were both free;

~~Mr. Manthorpe: Yes.~~



(Tape H -1150 follows)



July 10/73  
4.45 to 4.50 pm  
DT

(Mr. Manthorpe)

~~some difficulty in finding a date when we were both free~~ so the first date may not have been set on that first occasion when I called him, ~~but~~ I do recall that the ~~first~~ first date that we made to meet was quite some considerable time, in terms of days, ahead of my first call to him.

Mr. Shibley: All right, and would it be an appointment for the sixth or the seventh of December?

Mr. Manthorpe: That would be about right.

Mr. Shibley: All right; so that if Mr. Candy said it was the seventh which was the first appointment he gave you, would you agree with him in that respect?

Mr. Manthorpe: I couldn't dispute it. There were a number of dates which were set and cancelled.

Mr. Shibley: Then on each occasion prior to the 15th that it was cancelled, did Mr. Candy not say that it was because the answers had not yet been tabled in the House?

Mr. Manthorpe: He didn't on the first occasion he cancelled. I think he did subsequently or at least - no, he didn't give that as a reason but he mentioned it during the conversation.

Mr. Shibley: All right. You mean the conversation on the 15th?

Mr. Manthorpe: Well, the conversation that we had in trying to set up a date. He didn't mention it specifically as a reason why he couldn't see me but he did indicate during the conversations that it was difficult to see me at that time because of the question that was tabled in the House.

Mr. Shibley: All right. Now, then, did you also speak to Mr. Fleck on the 15th?

Mr. Manthorpe: No. I spoke to Mr. Fleck, I think, on the 11th.

Mr. Shibley: On the 11th, ~~and was~~ that the occasion ~~on~~ which reference was made to the fact that Ellis-Don was unhappy?

Mr. Manthorpe: Yes.





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DT

Mr. Shibley: In that connection, who - I am sorry; how was that information elicited? Who said what to whom in that ~~same~~ connection?

Mr. Manthorpe: Well, I was getting a bit - why I called Mr. Fleck was that Mr. Candy had finally said, I think, on the morning of the 11th that he couldn't see me until the answers had been tabled in the House, and I have a feeling that our ~~an~~ original arrangement was that we would meet early in the afternoon. I think he called me in the morning of the 11th and cancelled it. I was getting a bit peeved by this time ~~at~~ <sup>at</sup> being put off and put off and put off. I called Mr. Fleck ~~and~~ and I don't think I spoke to him in the morning. I think he called me back in the afternoon. I asked him when the answers would be tabled. He told me that he expected -- that he was waiting for some additional information and that he hoped to have it within two or three days and that the answer would then be tabled ~~and~~ <sup>As</sup> I said when I was here before, he then tried to find out what I knew about the situation, ~~what~~ <sup>what</sup> line I was working on.

Mr. Shibley: At this point, Mr. Manthorpe, I would like you to be precise as to what he said to you and what you said to him because I am anxious to ascertain where the information originated.

Mr. Manthorpe: I can refer you back to what I said before which was that he said something like <sup>5</sup> "What have you got?" or something like that. I don't think it was ~~as~~ as blunt as that, but something like that and my reply was that -- obviously, I didn't want to tell him and I made a non-committal answer like <sup>5</sup> "Oh, it is a strange situation" or something like that, and ~~he~~ <sup>He</sup> then said <sup>5</sup> "Well, I know Ellis-Don is unhappy."

Mr. Shibley: Now, Mr. ~~5~~ Manthorpe, are you sure that you didn't say to him <sup>5</sup> "I hear Ellis-Don are unhappy"? You are sure that you did not?

Mr. Manthorpe: Positive.

Mr. Shibley: He volunteered that information to you?

Mr. Manthorpe: Yes, as I felt, trying to draw me out.



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Mr. Shibley: I see. All right, now, then, can you help us further as to the date of Mr. Smith's call to you? I mean the first date of the first call? Have you reflected further upon your evidence in that respect and can you add anything to it at <sup>(this)</sup> ~~that~~ time?

Mr. Manthorpe: No, I would agree with what Mr. Smith and Mrs. Shuttleworth have said. In all likelihood it was sometime early



(H-1151 to follow)



H-1151-1

(Mr. Manthorpe)

~~agree with what Mr. Smith and Mrs. Shuttleworth have said. And in~~  
~~all likelihood it was sometime early~~ <sup>to</sup> ~~in~~ the middle of the last  
week in November.

Mr. Shibley: I see. Relative to the tabling of Mr. Nixon's  
questions in the House on December 1, are you certain that the call  
was received prior to that date?

Mr. Manthorpe: Yes.

Mr. Shibley: You have heard evidence of Mr. Smith, and,  
today, of Mrs. Shuttleworth, that he received ~~a~~ <sup>the</sup> call from Mr. Cronyn  
after he had called you. ~~And~~ I remind you that you had earlier  
testified-- could I have his exact evidence in that respect? ~~and~~  
I am reading from Hansard 703-2, June 21, in the late afternoon,  
about two-thirds down the page:

"Mr. Manthorpe: He then said the government is very  
nervous about that one. And then he said someone close to the  
Premier's office has called me and asked me to keep quiet about it.

"Mr. Shibley: Now, did he say this to you at the outset  
of his discussion with you?

"Mr. Manthorpe: Yes, it was very close to the beginning  
of the conversation, yes."

"Mr. Renwick: I'm on 703-2.

"Mr. Shibley: And do I take it then that he mentioned  
this in the context of saying, notwithstanding that he had  
received this communication, he was nevertheless prepared to discuss  
it with you?

"Mr. Manthorpe: He indicated that he was very upset by  
the situation.

"Mr. Shibley: Did he sound upset?

"Mr. Manthorpe: Certainly everything he had to say came in  
a rush. That was the only indication of his ire that I had.

"Mr. Shibley: Now, I would like you to be very precise, as  
precise as possible, about the exact words that he used to you,  
in speaking to you, when he said -- "someone close to the Premier's  
office has called me and asked me to keep quiet about this". Are  
you paraphrasing when you use those terms?



H-1151-2

"Mr. Manthorpe: No, I remember distinctly he said someone from the Premier's office. Now whether he said to keep quiet about it or to keep my mouth shut, I couldn't be absolutely certain, ~~about~~, but I think he used the first term that I mentioned.

"Mr. Shibley: I'm sorry, I was thinking of something else. Could you repeat that last answer?

"Mr. Manthorpe: No, I think he said to keep quiet about it. I don't think that he said to keep my mouth shut.

"Mr. Shibley: So that would you now restate, so that we can clearly have what he said, nothing more and nothing less and as precisely as you can.

"Mr. Manthorpe: All right, ~~he~~ he said the government was nervous about it, about the whole situation with Hydro, and I said some comment like, "Is that so?"; and he said, "Yes, someone close to the Premier's office has called me and told me to keep quiet about it". He had initially, of course, identified himself as the president of one of the companies that failed to get the contract."

Now starting with that previous evidence, Mr. Manthorpe, I am concerned to know whether he said, as you indicated at first, "someone from the Premier's office" on the top of page 704-1, and later when I asked you to be very precise you said ~~someone~~ that he said "Yes, someone close to the Premier's office".

Mr. Manthorpe: No, no, "close to the Premier's office."

Mr. Shibley: Close to the Premier's office?

Mr. Manthorpe: Yes. I have a feeling it ~~is~~

Mr. Shibley: And there is no doubt in your mind about that fact?

Mr. Manthorpe: No, none whatsoever.

Mr. Shibley: All right. And, of course, if he ~~had~~ said someone from the Premier's office that would have been much more significant and you would have remembered it?

Mr. Manthorpe: With all due respect to Hansard, I don't recall saying someone from the Premier's office earlier.

Mr. Shibley: That's fine. So that in any event, if that is what ~~is~~ is attributed to you on that occasion, it is not in





H-1151-3

(Mr. Shibley)

accordance with your recollection then or now as to what was said to you? Is that correct?

Mr. Manthorpe: Yes.

Mr. Shibley: It was someone close to the Premier's office, not someone from the Premier's office?

Mr. Manthorpe: That's right.

~~Mr. Shibley: Now then, as to the statement that you said there he did say, "yes,..."~~

H-1152-1 follows



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4:55-5 pm

C.B.

(Mr. Shibley)

~~not someone from the Premier's office.~~

~~Mr. Shibley: Now then as to the statement,~~

you said there he did say, "Yes, someone close to the Premier's office ~~and~~ has called me and told me to keep quiet about it"; do you have anything further to say in respect of that evidence in the sense of adding to or varying from what you said previously?

Mr. Manthorpe: NO, that is ~~was~~<sup>is</sup> I recall the conversation.

Mr Shibley: Now then is there some reason why you can so definitively say that Mr. Smith said "someone close to the Premier's office has called me and told me to keep quiet about it"?

Mr. Manthorpe: Yes, I, of course, tried to find out ~~from~~ from him who had called him, and I put a series of names to him, all of which I may say he denied having been the person, and I remember those names very clearly, and I remember that in searching in my mind for ~~names~~ names to put to him that the people I thought of, and I was concentrating ~~on the~~ <sup>on the</sup> people around the premier's office.

Mr.Shibley: I see, so you mentioned a number of names. YOU, I gather, are familiar with people who are close to the Premier's office, is that right?

Mr. Manthorpe: Yes.

Mr. Shibley: And you put a number of names to him, none of which elicited an affirmative answer?

Mr. Manthorpe: No.

Mr. Shibley: Was he saying no or was he simply saying no comment?



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Mr. Manthorpe: NO he was saying "no" and he chuckled on one or two occasions and said something like "Oh you'll get it eventually" or something like that. But I didn't.

Mr. Shibley: NOW then, I might remind you Mr. Manthorpe, that when Mr. McAuliffe heard similar words later in April of 1973, and I'm obliged to remind you of course that he also heard the ancillary words "told to keep my mouth shut or I would not get another government job", or something to that effect; when McAuliffe was told someone close to the Cabinet had called and said " to keep quiet or he would never get another government contract", that Mr. McAuliffe has testified that ~~he~~ this created some excitement on his part. Do you remember ~~that~~ that?

Mr. Manthorpe: Yes.

Mr Shibley: He felt that this was a break-through

Mr. Manthorpe; Yes.

Mr. Shibley: And he reported it to his editor in those terms, as his editor himself confirmed. Is that right?

Mr. Manthorpe: Yes.

Mr. Shibley: Why did you not similarly consider it significant in November when Mr. Smith reported to you that someone close to the Premier's office had called him and told him to be quiet?

Mr. Manthorpe: I did consider it significant and I think I said so before.

MR. ~~Shibley~~ Shibley: All right.

Mr. Manthorpe: But I considered it only one part of a much wider thing. I was from the <sup>view</sup> ~~fact~~ that I had gained of the situation at that time, I was also very much





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4:55 - 5 pm  
.C.B.

(Mr. Manthorpe)

concerned with getting hard facts about the situation, and I didn't want to get off on a tangent. I had a lot of information that I had to get.

Mr. Shibley: So you did consider it significant?

Mr. Manthorpe: Yes.

Mr. Shibley: And you've already told us that you attempted to follow up with MR. Candy?

Mr. Manthorpe: Yes

Mr. Shibley: And you spoke to MR. Fleck?

MR. Manthorpe: Yes.

Mr. Shibley: Did you speak to anyone else?

Mr. Manthorpe: No. Oh, when I discovered, ~~the Mr. Nixon~~ and I've said this before, when I discovered that MR. Nixon had tabled a question, and I must have discovered that during one of my conversation with MR. Candy the first week in December, which would begin on the 4th I guess, it would be Monday the 4th, I did ask Mr. Nixon, as I've already said, or tried to find out the basis for his question, and it seemed to me as a result of the conversation that his question was simply based on having heard the same kind of general rumours around the city that I had heard. ~~the~~

H 1153 to follow





Mr. Shibley: Now on April 17 you attended at the offices of Ellis-Don in London, is that correct?



H - 1153 - 2

Mr. McAuliffe: That is correct.

Mr. Shibley: ~~Now~~ On the occasion of your first attendance there, as I understand the earlier testimony, you were met by Mrs. Shuttleworth and Mr. Grant?

Mr. McAuliffe: That is right, sir.

Mr. Shibley: You confirm that?

Mr. McAuliffe: Yes.

Mr. Shibley: And your discussions were with them initially? Is that correct?

Mr. McAuliffe: Yes, sir, when I first arrived I was met by Mrs. Shuttleworth and then Mr. Smith came in, Mr. Smith introduced me to Mr. Grant and then left.

Mr. Shibley: On that occasion were the files of Ellis-Don referable to the head office building produced to you?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: And do you now have in your possession any documents which are relevant to the issues before this committee, other than what has already been produced?

Mr. McAuliffe: I do not.

Mr. Shibley: ~~Now~~ with respect to your discussions on the occasion of the 17th, can you tell me what was discussed between yourself, ~~and~~ Mrs. Shuttleworth, and Mr. Grant in the first instance?

Mr. McAuliffe: Well, by prior arrangement with Mr. Smith, I was to be given access to certain material the next day, would interview the two of them, they would fill me in with respect to certain material, and Mr. Smith was to come in at a later hour.

Mr. Shibley: Did they provide you with the specifications provided by Hydro on which the tenders were to be made?

Mr. McAuliffe: I think you will recall that both Mrs. Shuttleworth and Mr. Grant have testified to that.

Mr. Shibley: Yes, and you confirm that?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: Now On this occasion was there discussion



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(Mr. Shibley)

between you as to the interview being of a confidential nature or that any part of the information that you were eliciting would be confidential?

Mr. McAuliffe: That is correct, sir.

Mr. Shibley: Can you tell this committee what was said in that respect?

Mr. McAuliffe: Yes, sir. I gave Mrs. Shuttleworth and Mr. Grant a commitment and firm undertaking that neither one of them would be quoted or identified in the story; that any quotes on behalf of the company would be carried

Tape H - 1154 follow s







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5.05 to 5.10 pm  
DT

(Mr. McAuliffe)

~~be quoted or identified in the story that any quotes on behalf of the company would be carried~~ under the name of Mr. Smith, as was previously arranged, and that I would go over those quotes with him. As a matter of fact, I would obtain those quotes from him when he returned to the office for the balance of the meeting. May I point out that there was a commitment given to Mr. Grant and Mrs. Shuttleworth which I kept and the Globe and Mail kept.

Mr. Shibley: All right. Now in the context of that last statement, I would like to review with you the content of your article of April 30th, 1973, which is exhibit 172. Do you have it before you?

Mr. McAuliffe: I do.

Mr. Shibley: Now, would you go through that article with the committee, indicating the basis upon which you were reporting in that article, against the background of the commitment you had made as to confidentiality.

Mr. McAuliffe: Yes, sir, in the section of the story, "An investigation into the three-year-old affair has revealed," if you go down to the fifth bracket or line, or whatever you want to call it, "One company official claims he was told by a senior Hydro executive that his company would be permitted to bid on the job, but don't work too hard at it." That is a statement that is latter attributed to Mr. Smith in the story.

Mr. Shibley: Yes.

Mr. McAuliffe: And ↵

Mr. Shibley: Now just before you go on: You say that's a statement attributed to Mr. Smith later on. Did you consider that in accord with the arrangements you had?

Mr. McAuliffe: That is correct, sir. During the period of the interview in which Mr. Smith has already testified to as discussions between us, about 11.20 a.m., he had made that statement to me on the night of the 16th on the telephone, and repeated it the next day. I asked him for consent to attribute his name to it and he gave it to me.



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Mr. Shibley: So that in ~~the~~ that connection you received the specific assent of Mr. Smith to identify him as the author of the statement?

Mr. McAuliffe: That is correct.

Mr. Shibley: All right, would you go on please?

Mr. McAuliffe: Yes, sir. I am sorry, I haven't a copy of the exhibit but I am going according to the second page of our story here. Perhaps if I had the exhibit, I could pick it out a little easier for you. On page 1 of exhibit 172, in the first of the single columns there, you will find three paragraphs from the bottom: "Ellis-Don Ltd. officials claim the firm's position has been misrepresented by Mr. Gathercole in his letter to Premier Davis." The reference to Ellis-Don Ltd. officials is a reference made ~~there~~ at the specific request of Mr. Smith himself, which came on the Friday morning. I think the letter is dated April 25th. The letter is dated April 25th. I interviewed Mr. Smith by telephone on the morning of Friday, April 27th ~~to~~

Mr. Shibley: You say a letter? Is there a letter that you are talking about?

~~Mr. McAuliffe~~: Oh, you are talking about the letter to Premier Davis. ~~Mr. McAuliffe~~: The Premier, that's right.

Mr. Shibley: I am sorry.

Mr. McAuliffe: I believe -- I would have to double check this but I think the letter was tabled in the House on the Friday morning.

Mr. Shibley: \* Yes, all right, fine.

~~Mr. McAuliffe: And on receipt of that letter, I~~

(H-1155 to follow)



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5.10-5.15p.m.

B.A.

H-1155-1

~~Mr. Shibley: I am not sure.~~

Mr. McAuliffe: And on receipt of that letter I telephoned the figures referred to by Mr. Gathercole in that letter did not coincide with other material that I had. I telephoned Mr. Smith to draw this to his attention and he told me that there was a misrepresentation, and I told him I would like to quote ~~him~~ him on that ~~subject~~ by name, and he asked me to refer to it as company officials, and that I did.

Mr. Shibley: All right.

Mr. McAuliffe: The same thing applies to the next paragraph, and in the last paragraph in that column; "Donald Smith, president of Ellis-Don, also said his firm was refused repeated requests to make a formal representation to Hydro's senior management people who would be making the final decision." That was done at the specific request of Mr. Smith, since it took up some part of our discussion, I believe to be very relevant to the circumstances of our investigation, and I asked ~~him~~ his approval to identify him by name and he gave it to me.

Mr. Shibley: When you asked that, this was ~~at~~ at the meeting, you say?

Mr. McAuliffe: ~~Yes~~ Yes, that would be at the meeting.

Mr. Shibley: And were Mr. Grant and Mrs. Shuttleworth present?

~~Mr. McAuliffe: Yes.~~

Mr. McAuliffe: Mr. Grant was there. Mrs. Shuttleworth was absent for the actual interview between myself and Mr. Smith, but Mr. Grant was there.





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B.A.

Mr. Shibley: Right. *I see.*

Mr. McAuliffe: In the next column; "Three weeks after Ellis-Don filed its submission Mr. Smith followed it with a letter to Hydro's general manager, D. J. Gordon, asking for a meeting. The reply five days later from H. J. Sissons, assistant general manager, said 'I do not think there is anything to be added to this or any advantage in meeting with Mr. Gordon or myself'"<sup>1</sup> and that was an attribution given to me by Mrs. Shuttleworth on Mr. Smith's direction.

Mr. Shibley: But aside from how you received it, was there any discussion as to the publication of it, or does this all fall within the context of ~~the~~ <sup>the</sup>

Mr. McAuliffe: No, I told him that I thought it was relevant again to the purposes of our investigation, and the difficulties that he was having in making what he ~~gave~~ ~~was~~ considered a proper proposal, and I asked for his consent to use that line out of the letter and he gave it to me. It was dictated in his presence.

Mr. Shibley: By Mrs. Shuttleworth?

Mr. McAuliffe: Yes.

Mr. Shibley: Are you saying he gave you permission to identify the source?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: All right, would you carry on?

Mr. McAuliffe: <sup>That there is</sup> ~~There is~~ "Ellis-Don officials ~~claim~~ <sup>claimed</sup> they first learned in July of 1971 that Hydro was planning to have a private developer build its new head office"; there, again, that is done with the consent of Mr. Smith. And the quote; "Contact was maintained and finally, Mr. Smith said he went to see Mr. Candy about January 5th or the 7th of last year and gained permission to submit a proposal".

The next paragraph here, in quotes: "Ken Candy told me we ~~can~~ could bid but ~~he~~ said, 'Don't work too hard at it', Mr. Smith said, 'I asked him what he meant but he didn't answer me'."



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B.A.

(Mr. McAuliffe)

And those quotes were given to me with the specific knowledge on Mr. Smith's part that I wished to quote him on it and had him repeat it twice for me to <sup>MAKE</sup> ~~be~~ sure that I ~~have~~ <sup>A</sup> had taken the quote down accurately.

Mr. Shibley: When you say he asked you to be precise, do I take <sup>it</sup> that that ~~is~~ is why you ~~o~~ felt confident in putting this statement in quotations?

Mr. McAuliffe: Oh, yes, sir. Certainly.

Mr. Shibley: All right. Would you carry on?

(Tape H-1156 follows)



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5:15 - 5:20 pm

C.B.

Mr. McAuliffe

The remaining paragraphs that refer to Ellis-Don are removed from the contents of the company's proposal to Hydro.

Mr. Shibley: I'd like to go back on the article with you, Mr. McAuliffe, and to the first column under the style "Told to keep mouth shut", and part of which says "a senior executive ~~executive~~ of one of the three unsuccessful firms that bid on the project, said he was called several weeks ago by a source close to the Ontario cabinet and high in the Progressive Conservative Party and told The Globe and Mail was investigating, 'I was told to keep my mouth shut or never get another government job'".

Now taking that statement or report piece-meal, it says "a senior executive said he was called". Did Mr. Smith say he had been called as opposed to him initiating the call to someone else.

Mr. McAuliffe: I'd like to clearly point out here that it's Mr. Smith who had identified himself as the source of the quote.

Mr. Shibley: I realize that.

Mr. McAuliffe: Yes, that's right, said "he was called".

Mr. Shibley: Did he say "several weeks ago?"

Mr. McAuliffe: Yes, sir, he did.

Mr. Shibley: Now you've heard the evidence in that respect, or at least some of the evidence, Mr. McAuliffe. Can you give any explanation as to why Mr. Smith would be talking about a call several weeks prior to April 30?



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C.B.

Mr. McAuliffe: Gee I. ~~am~~

Mr. Shibley: But you have no information that would help us.

Mr. McAuliffe: I'm sorry I don't.

Mr. Shibley: Your best recollection of what he said is, as you reported it, <sup>is</sup> that he said he received a call several weeks ago.

Mr. McAuliffe: That's correct.

Mr. Shibley: All right, "by a source close to the ~~Ontario~~ cabinet," I'm very anxious to know whether those were the precise words used by him.

Mr. McAuliffe: They are, sir, yes.

Mr. Shibley: It wasn't "close to the Premier's office"?

Mr. McAuliffe: Definitely not.

Mr. Shibley: It was "close to the ~~Ontario~~ cabinet."

Mr. McAuliffe: That is correct.

Mr. Shibley: And "high in the Progressive Conservative Party."

Mr. McAuliffe: Yes, sir.

Mr. Shibley: You are sure it wasn't something like "high in the party" or anything other than what you <sup>have</sup> exactly ~~mentioned~~ reported here?

Mr. McAuliffe: I can tell you, sir, that I had him repeat the statement the initial time that he made it, <sup>because</sup> he made it within the first 60 seconds of our conversation.

Mr. Shibley: By phone are you talking about?

Mr. McAuliffe: First of all, by phone. I had him repeat the statement so that I could take it down precisely. I think if you check my notes, which are already in exhibit, ~~am~~

Mr. Shibley: Yes.





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C.B.

Mr. McAuliffe: ~~That~~ they are word for word.

Mr. Shibley: Yes, I realize.

Mr. McAuliffe: Then we discussed it the next day and on the following Friday and they were gone over so many times that there <sup>is</sup> ~~was~~ just absolutely no doubt in his mind, no question in his mind or my mind as to exactly what the quote was and the significance that was attached to it.

Mr. Shibley: All right. Then the item goes on and says, "and told the Globe and Mail was investigating". He told you that.

Mr. McAuliffe: Yes, sir.

Mr. Shibley: Then there is a quote. Is it significant that the next part is in quotations?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: Is it significant in a sense that you were taking him down verbatim?

Mr. McAuliffe: That's right.

Mr. Shibley: And by quoting it were representing to the public that these were his exact words to you?

Mr. McAuliffe: That is correct.

Mr. Shibley: And the quote is: "I was told to keep my mouth shut or I would never get another government job" and that's where you end the quote.

Mr. McAuliffe: That's right.

Mr. Shibley: Now did you report on that statement from your notes of the discussion of the 16th or from the interview you conducted on the 17th, or as a result of both?

Mr. McAuliffe: As a result of the discussion on 16th, the meeting on the 17th, and the telephone conversation, which would be April 27. *MM*

H1157 to follow





H-1157-1

(Mr. McAuliffe)

~~Mr. Shibley:~~

Mr. Shibley: ~~Question~~ In any respect, Mr. McAuliffe, is any of the information as reported to you in this article, information respecting <sup>which</sup> ~~that~~ you wished to vary from what is reported or supplemented at this time?

Mr. McAuliffe: Absolutely not. Perhaps for your own benefit, I don't know if you want any more clarification on the discussions on that quote or not.

Mr. Shibley: All right.

Mr. McAuliffe: As I have already testified to the original telephone call on the 16th we discussed it again the next day in his office.

Mr. Shibley: Yes.

Mr. McAuliffe: At which <sup>time</sup> I told him that I couldn't believe the statement that he had made to me the night before, and I asked him to repeat it for me. And he repeated it in those words.

Mr. Shibley: Yes.

Mr. McAuliffe: And Mr. Grant was present.

Mr. Shibley: Yes.

Mr. McAuliffe: And I told him I wanted to quote him on it. If you will excuse the expression, he was rather gun-shy, and I drew to his attention that he had made the statement to me prior to any understanding the two of us later reached on the ~~confidentiality~~ confidentiality of certain discussions and material, and told him that I thought the issue was significant enough that <sup>it</sup> would play a very major part in the story. The ~~the~~ discussion was <sup>very</sup> brief then on his part. I asked him to tell me who it was. I asked him if he wasn't going to let me quote him on it by name, would he please tell me who it was so that we could weigh the situation even further. He wouldn't do so. I asked him if it was one particular individual and he wouldn't confirm it or deny it, ~~he~~ he simply smiled and said "I'm sorry, the individual is a personal friend of mine, and that is as far as I can take it". We got on to some other discussions, the Candy quote. I should explain to you that we ~~were~~ in the stage where we were discussing what would be attached to Ellis-Don's name and



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(Mr. McAuliffe)

to his name; and we went from there on to the difficulties that he claimed to have in his talks with Mr. Candy, ~~xxxx~~ So we <sup>we</sup> verified that and what he would be quoted on, ~~xxx~~ We were running close to the time when we would have to leave for Toronto, so ~~he~~ <sup>we</sup> left his office and we discussed it further on the way back on the aircraft, and..

Mr. Shibley: Just before you get to the aircraft, I want to take you back a moment. The closest he came to identifying the person who placed the call to him was to say, "I'm sorry, the individual is a personal friend of mine"?

Mr. McAuliffe: That is correct.

Mr. Shibley: He did give the person that much of a description.

Mr. McAuliffe: That is correct, sir.

Mr. Shibley: He didn't name him?

Mr. McAuliffe: No.

Mr. Shibley: All right. ~~Now then,~~ As you were leaving the Ellis-Don offices that day, it is the evidence of Mrs. Shuttleworth that she overheard a comment made to you ~~in~~ by Mr. Smith, and in her presence, and I think her evidence in that respect was read just earlier this afternoon. Do you remember Mr. Smith making an observation to you at that time referable to the call from someone close to the Cabinet?

Mr. McAuliffe: No sir.

Mr. Shibley: You don't remember the comment made to you then?

Mr. McAuliffe: I <sup>had</sup> just finished discussing it inside.

Mr. Shibley: Yes.

Mr. McAuliffe: As I recollect events as we left his office, he was discussing about the difficulties times the Globe and Mail was giving the government.

Mr. Shibley: That was true.

~~Mr. McAuliffe: A matter of opinion, sir.~~

H-1158-1 follows





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5:25 - 5:30 pm

.C.B.

~~Mr. McAuliffe: I don't recall him saying that~~  
~~the Globe and Mail was in the office.~~

~~It was a sort of a jocular conversation.~~

Mr. McAuliffe: It is a matter of opinion, sir.

It was a sort of a jocular conversation.

Mr. Shibley: All right.

Mr. McAuliffe: And if he said it, it didn't register in my mind and I can assure you at that stage had he mentioned it again, I feel it would have.

Mr. Shibley: I see. So that your memory of when the disclosure was made to you on the occasion of your trip to London and the memory of Mrs. Shuttleworth vary as to the circumstances of his having made that disclosure to you?

Mr. McAuliffe: That is correct.

Mr. Shibley: It ~~also~~ varies in part as to content. Because she has no memory of words to the effect that Smith said he was told to keep his mouth shut, and I'm stressing the last part "or I would never get another government contract".

Mr. McAuliffe: I don't recall him saying that in the hallway as we left the office. Because when I got into the discussions with Mr. Smith, we did ~~so~~ so in the presence of Mr. Grant, who left the office for a couple of minutes at one stage, but we were behind closed doors.

Mr. Shibley: And Mrs. Shuttleworth wasn't there?

Mr. McAuliffe: No sir, she was out at her desk.

Mr. Shibley: All right.

Mr. McAuliffe: As I recall it, she came in a couple of times and left, but she was not there for the duration of the interview.

Mr. Shibley: Now then, Mr. McAuliffe, you were about to tell us about the plane trip back.



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C.B.

Mr. McAuliffe: ON the planetrip back, I resurrected the issue ~~of the statement~~ of the statement again and told him that - I resurrected it again and in a roundabout way sort of asked him to repeat it for me again, ~~Primarily~~ to establish in my own mind whether or not it varied in content from the evening before and from the previous hour.

He repeated it for me again and I asked him did he fully appreciate - Mr. Shibley, I'm just one step ahead of myself, I'm sorry but I have to go back to the meeting in the office, because during the interview I asked him whether or not ~~he~~ he regarded the statement seriously. Because I asked him how it could ~~be~~ affect his dealings with the government, how they could chop off his government contracts.

His reply to that was, he didn't give a shit if he ever got another government job. So I said "Fine this ~~relates~~ part of my problem now in wanting to use it".

Mr. Shibley: Yes.

Mr. McAuliffe: Anyways, the conversation eventually went on to the Candy interview. So in the aircraft on the way back I resurrected the question again and I suggested to him that he was being blackmailed, if ~~he~~ he regarded the statement that seriously, If he took it seriously, that it was an issue that shouldn't be overlooked either by him or by us. I said to him that I found myself in a very , difficult position professionally, because he had made the statement to me previous to any commitments of confidentiality, and that I would have to weigh in my mind that day and the next day as to whether or not we'd use the statement and attach his name to it.

IT WAS THEN ~~that~~ that he raised the issue of the pending, I'm just trying to think of the right word, the pending claim he had before the government. That related




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C.B.

(Mr. McAuliffe)

to, as I recall it, <sup>a/</sup>hospital job someplace, and that it was a major claim, estimated by him to be worth to Ellis-Don alone in the amount of <sup>400</sup>~~300~~,000.



H1159 to follow



July 10, 1973

5.30-5.35p.m.

B.A.

H-1159-1

(Mr. McAuliffe)

The reason that he asked me not to use his name was that any attribution to him in the story with a statement of that effect, he believed, would jeopardize the negotiations for settlement of that claim.

Mr. Shibley: All right. So that to put it in context, is what you are saying that whereas in the interview within the office he indicated he didn't have any further regard for whether he ever had ~~been~~

Mr. McAuliffe: That's right.

Mr. Shibley: ~~from~~ another government contract; by the time of your conversation in the plane he had remembered that he had a claim outstanding which might be affected by the publicity of this statement?

Mr. McAuliffe: It wasn't a question of him remembering it, I am sure he remembered it before then, but I think that -- you know, I took it as a very legitimate cause of concern on his part for ~~anxious~~ of the ~~was~~ attribution, and once he raised that issue it helped me place in my own mind the perspective that we would have to consider the attribution on it.

Mr. Shibley: By that you mean that it helped make up your mind as to whether you could attribute the statement to him having regard to the fact that he would have a pending claim outstanding?

Mr. McAuliffe: Yes, sir, I was satisfied that he was legitimately concerned, and had been from the start, that that was the reason he didn't want to be quoted on it. We discussed the probabilities of an inquiry into the episode, and then the conversation changed to other areas. ON the following Friday when I called him with respect to the letter of Premier Davis, I resumed the issue of the identification on the quote again, and I said to him, I apologized to him because Mr. Smith had been very co-operative, very sincere, and I said to him,





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B.A.

(Mr. McAuliffe)

"I hate to put you on the limb, but I am going to ask you once again. I would like to attach your name to that quote", and he asked me not to. And I ~~was~~ asked him, if I used the quote - I'm sorry, I told him then that we would use the quote but not attach a name to it, but I asked him that if we did ~~it~~ so, and in the ~~event~~ of an enquiry, was he prepared to testify under oath that the statement had, in fact, been made, and he said, "YES". So, I decided at that stage to respect his request for anonymity for the reasons that he had expressed.

May I point out that all other commitments, in every respect that I gave Mr. Smith, that I gave Mr. Grant, that I gave Mrs. Shuttleworth, have been kept and are totally borne out by the facts ~~related~~ <sup>so in</sup> these two stories.

Mr. Shibley: Now, then, Mr. McAuliffe, going back to the quote itself, was it the portion of the quote that says, "I was told to keep my mouth shut", or <sup>was</sup> ~~was~~ it the portion of the quote that says, "Or I would never get ~~any~~ another government job" combined with ~~that~~ <sup>an</sup> earlier part that caused you to consider that the statement had the significance that you say you attributed to it?

Mr. McAuliffe: I would say the entire quote, sir.

Mr. Shibley: The entire quote?

Mr. McAuliffe: Yes.

Mr. Shibley: If he had simply said to you, "I was told to keep my mouth shut" what would have been your assessment of the matter?

Mr. McAuliffe: It wouldn't have surprised me in the least.

Mr. Shibley: I am not asking if it would have surprised you but if it would have been worthy of an article?

Mr. McAuliffe: The story was worthy of an article regardless of the quote, just on the basis of our investigation.



July 10, 1973

5.30-5.35p.m.

B.A.

Mr. Shibley: In the ~~statement~~ course of your interviews with Mr. Smith, did he, from the outset, combine the two portions of that statement or did he start the interview by saying, "I was told the Globe and Mail was investigating and

(Tape H-1160 follows)



July 10/73  
5.35 to 5.40 pm  
DT

~~(Mr. Shibley)~~

~~statement or did he start the interview by saying "I was told the~~  
~~Globe and Mail was investigating and told to keep my mouth shut;"~~  
or did he give you the whole of that quote from day one, so to speak?

Mr. McAuliffe: He gave me the whole of the quote from day one, repeated it for me when I wrote it down; ~~repeated~~ repeated it for me again the next day.

Mr. Shibley: What I am concerned about, Mr. McAuliffe, ~~is~~ is whether Mr. Smith became more elaborate in respect of the content of that quote as the interviews proceeded or was he (consistent) ~~consistent~~ respecting the whole of its content from the ~~initial~~ *initial* communication with you?

Mr. McAuliffe: No, sir, he was consistent with the whole of the quote from the initial contact. As I say, there wasn't that much elaboration ~~on~~ on it.

Mr. Shibley: You appreciate that as at the time he called Mr. Manthorpe, he said that someone close to the Premier's office had called him and to keep quiet, whereas on the occasion that you interviewed him, he said ~~and~~ and I appreciate it might be two different calls; there is always that possibility. ~~on~~ on that occasion he said ~~"I was called by a source close to the Cabinet and high in the P.C. party and told the Globe was investigating, to keep my mouth shut or I would never get another government job."~~ That is quite an expansion upon the information he was able to provide to Mr. Manthorpe as of the time he spoke to him.

Mr. McAuliffe: Yes, sir.

Mr. Shibley: So that I am anxious to ascertain from you, Mr. McAuliffe, whether in any way in the course of your interviews with Mr. Smith you recognised any effort on his part to enlarge upon the matter, to excite interest on your part, or was he consistent from the outset?

Mr. McAuliffe: He was consistent from the outset, sir.

Mr. Shibley: There wasn't any circumstance of your sort of ho-humming the interview until he made this statement to you?





July 10/73  
5.35 to 5.40 pm  
DT(Mr. Shibley)

I am talking about whether it was on the occasion of the telephone call of the 16th or on the 17th.

Mr. McAuliffe: I am sorry, but I am not sure what you mean about ↵

Mr. Shibley: Ho-humming?

Mr. McAuliffe: It wasn't a question of ↵

Mr. Shibley: What I am concerned about, Mr. McAuliffe, is this: I want to be certain that we have everything that you can tell us about the circumstances of the interview that would assist the committee to know whether Mr. Smith was telling you a fact that had actually occurred or a fact which was intended to excite interest on your part.

Mr. McAuliffe: Oh, no, sir, I don't think it was a question of him trying to excite interest on my part. I think he took the issue very ~~anonymously~~ seriously.

Mr. Shibley: All right, and when you say he took it very seriously, you have already mentioned that he had concern about anonymity in respect of some part of the article ↵

Mr. McAuliffe: Yes, sir.

Mr. Shibley: And he had concern about the fact that he had a claim pending respecting a hospital job?

Mr. McAuliffe: That is correct.

Mr. Shibley: And notwithstanding those concerns, he permitted you an ~~an~~ interview?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: And also spoke to you by phone the previous day?

Mr. McAuliffe: Let's see. I interviewed him on the Tuesday and we talked on the Friday, that would be three days later.

Mr. Shibley: Well, Mr. McAuliffe, do I take it then you were dealing with a man who, at this point of time, had reconciled himself to the circumstance that he would never get another government job in any event?

Mr. McAuliffe: I don't know that you could take it that far. He certainly viewed the statement with the utmost seriousness.




July 10/73  
5.35 to 5.40 pm  
DT

Mr. Shibley: Yes.

Mr. McAuliffe: I can't personally tell you whether

or not he ~~was~~ in his discussions with ~~me~~ me, it was made amply clear to me by him that a lot of his jobs, most of his jobs as such, were not in effect ~~government~~ government jobs but they were jobs, for example, with hospital boards, ~~various type~~ various type government-related ~~and~~ agencies but agencies



(H-1161 to follow)



H-1161-1

(Mr. McAuliffe)

~~\_\_\_\_\_~~ that relied on government financing.

Mr. Shibley: Yes.

Mr. McAuliffe: And I think he was seriously concern<sup>ed</sup> of running into difficulties. Whether or not he actually believed he would never get another government job; I'm sorry, but only he could tell you how he viewed that.

Mr. Shibley: Mr. McAuliffe, I don't have any further questions of you at this time, but I want it understood that you are to remain available to this committee, and any material that you may have referable to the issues are to remain in your possession. Is that understood?

Mr. Lane: Yes, sir.

Mr. McAuliffe: Yes, sir. I would like it understood, Mr. Shibley, if I may suggest, I would like to go on my holidays this Friday, without being directly available.

Mr. Shibley: All right, but subject to that I ~~am~~

Mr. Chairman: Mr. McAuliffe, with the rest of us standing by, and setting our holidays aside, I think maybe we will have to ask you to keep yourself available. I don't mean necessarily right here in Toronto, but where we can get you in a hurry.

Mr. Glen Hodgson.

Mr. R.G. Hodgson: Mr. McAuliffe, the file that you looked at on the 17th in your London interview, did that contain the July 14 letter, or had you seen the July 14 letter ~~in~~ there in that file?

Mr. McAuliffe: I'm sorry, Mr. Hodgson, but to answer that question, sir, you are asking me to breach a confidentiality.

Mr. R.G. Hodgson: It would be the same then with regard to the possibility of Mr. Seguin's letter?

Mr. McAuliffe: Well I ~~am~~

Mr. R.G. Hodgson: Or do you consider that one confidential?

Mr. McAuliffe: I'm awfully sorry, sir, but, I gave Mr. Smith a firm commitment as to the confidentiality of certain material I would see, and as I said earlier, we have kept it to this date,



H-1161-2

(Mr. McAuliffe)

and I would certainly hope to be able to keep it through

Mr. R.G. Hodgson: Can you tell me did you obtain copies of any documents from that file?

Mr. McAuliffe: Mr. Grant has testified that he gave me copies of the specifications, and <sup>a</sup> copy of the Ellis-Don proposal.

Mr. Shibley: I may say, Mr. Hodgson, I have asked the witness, "Do you have any relative documents not already produced?" And he says "I do not".

Mr. R.G. Hodgson: I realize that.

Mr. Chairman: Anything else, Mr. Hodgson?

Mr. R.G. Hodgson: No, that is all.

Mr. Chairman: Any other member? Mr. Renwick.

Mr. Renwick: Mr. McAuliffe, when Mr. Manthorpe gave his evidence - not today, but on a prior occasion - he stated that he attended at the companies' record office and searched the files of the four developers. And as I took it from that, <sup>he</sup> noted down who the directors were of ~~the~~ the developers. I am looking at Mr. Manthorpe to see whether that is a correct statement or not. Assuming for the moment it is a correct statement, I think it is in the evidence, when you received the file from the city editor, assigning you to the Hydro building story, was there any document in that file which listed the directors of Ellis-Don?


Mr. McAuliffe: Yes, sir.

Mr. Renwick: And you said that you tried a name on Mr. Smith and he didn't comment one way or the other. Was the name that you tried on, Mr. Cronyn?

Mr. McAuliffe: No sir.

~~Mr. Renwick: I do not recognize the~~

H-1162-1 follows







[illegible]

Mr. Renwick: Did you recognize the Mr. ~~Cannery~~

Mr. McAuliffe: No, I didn't sir.

Mr. Renwick: You never made any conjecture

Mr. McAuliffe: No sir.

Mr. Renwick: Well, I guess I drew a blank

Mr. W. Newman: Is it ~~the~~ confidential the

Mr. McAuliffe: Well, I would ~~like~~<sup>hope</sup> so.

Mr. Shibley: Mr. Newman, I think it unfair to

Mr. Renwick: I don't think my question fell in that

Mr. Shibley: No, not your question Mr. Renwick.

Mr. Chairman: Mr. McAuliffe, I'd like to ask

Mr. McAuliffe: It had something to do with

Mr. Chairman: Was it a mechanic's lien or was



July 10/73

5:45 - 5:50 pm

C.B.

Mr McAuliffe: ~~What~~ The whole idea at this stage, I think, was to try and resolve the matter before they got into costly litigation. It was explained to me that there had been delays, brought about, by, I believe, some stop-work orders issued by one of the government departments, and I'm recalling from memory here, I believe it was the Health Department, and that some changes had to be made in the construction of a certain building that added to the costs and some delays in construction. ~~That~~ <sup>He had</sup> put the claim in, <sup>but</sup> didn't tell me when, but said the claim had gone ~~into~~ in and that he wanted to negotiate the ~~a~~ settlement of it without having to go to court to do so.

Mr. Chairman: So as far as you are concerned, you think it was still in the negotiable position?

Mr. McAuliffe: Very much so, sir, yes.

Mr. Chairman: Now is there any possibility in your mind that there could have been two people involved in this quotation that we have spent so much time on?

Mr. McAuliffe: ~~Not~~ at all, sir.

Mr. Chairman: In your mind there was only one person.

Mr. McAuliffe: Only one person, that is right.

Mr. Chairman: Now you say you get consents ~~and~~

Mr. McAuliffe: I'm sorry.

Mr. Chairman: You say you get consents or agreement to attribute their names to certain quotations. How do you go about getting that ~~consent~~ consent or how do you go about recording that consent?

Mr. McAuliffe: ~~Actually~~ Actually, there is no recording as such. In our initial discussion Mr Smith gave me an undertaking to be interviewed, but told me that he had ~~very~~

Mr. Chairman: Was that a written undertaking or just verbal?



July 10/73

5:45 - 5:50 pm

C.B.

Mr. McAuliffe: No, this was in a telephone conversation. But that he didn't want the company's name used or his own. I told him at this stage there was absolutely no way I could keep Ellis-Don's name out of it or his own; that we would be identifying all four development companies; that we would be identifying officials of all four development companies and I believed it to be in his best interests to give me the time to explain himself, his company's involvement in it.

Mr. Chairman: I'm just coming to the matter of consent itself. There is no formal written release that you obtain from these people?

Mr. McAuliffe: No, sir.

Mr. Chairman: And who's the depository of that consent?

Mr. McAuliffe: In this case it would be Mr. Smith. I would give him the undertaking that certain

Mr. Chairman: All right, but that's the undertaking that you wouldn't use it. But who's to judge whether you breached the consent or not?

Mr. McAuliffe: That's. I guess Mr. Smith would have to judge that and I would judge it.

Mr. Chairman: All right. Now, in the article you refer to four companies, I believe you only quote a person from one of those companies. Isn't that right?

Mr. McAuliffe: No sir.

Mr. Chairman: Whom else do you quote?

Mr. McAuliffe: There is a Mr. ~~xxxx~~ Tatham the vice-president of Y and R Properties.

Mr. Chairman: And what do you attribute to Mr.

~~Tatham~~





H-1163-1

(~~Mr. McAuliffe~~)

~~now Mr. Tatham, the vice-president of Y and R Properties.~~

Mr. Chairman: And what do you attribute to Mr. Tatham?

Mr. McAuliffe: Page 2 of exhibit 172<sup>a</sup>

Mr. Shibley: Midway on the ~~4~~

Mr. McAuliffe: First column, two paragraphs down:

"G. Vernon ~~T~~<sup>h</sup>atham, vice-president of Y & R Holdings Ltd., said in an interview he was reluctant to discuss intimate details of his company's role in the affair, "because it is our policy not to release information that would be embarrassing to the client." He confirmed his company was not invited to make a proposal.

"We learned about it and made ourselves known to Hydro, <sup>a</sup> that we are <sup>a</sup>competent company of repute, that we are specialists in our business," Mr. Tatham, said.

"He said Mr. Candy was the contact man and the person his company negotiated with.

"Mr. Tatham refused to show <sup>15</sup> The Globe and Mail what material Hydro had given his company on <sup>Y.R.C.</sup> to base its proposals.

"They had broad terms of reference, <sup>16</sup> we had conversation, the conversations were put into writing," Mr. Tatham said.

"He said any information on his firm's proposal could be released only by <sup>Hydro</sup> ~~Hydro~~. He did say, however, that Y & R had submitted a proposal based on building on Hydro's own land at College and University, and another proposal on a total package on land owned by Y & R about three blocks away."

Mr. Chairman: All right. Now that is the Y and R. What about Horizon Development?

Mr. McAuliffe: I had an interview with Horizon Development scheduled for the morning of April ~~1~~ <sup>1</sup> it was either April, ~~11~~ <sup>25</sup> or April 26 at 9:30 a.m. with Mr. Walter ~~17~~ <sup>2wig</sup>. The interview never took place because of some circumstances of Mr. ~~2~~ <sup>2wig</sup>'s the previous day.

Mr. Chairman: I think you suggest in the article that they refused to discuss it with you, didn't you not?

"Only Horizon Development Limited refused to discuss the matter".



H-1163-2

Mr. McAuliffe: Yes, that is right.

Mr. Chairman: All right. Now I think it is fairly obvious it wasn't Canada Square that was making the complaints, and the tone of the interview with Mr. ~~Mr.~~ Tatham did not make it sound as though he ~~was~~ was doing very much complaining. Now it seems to me a ~~little~~ little pious on your part to suggest that you have not identified Ellis-Don.

Mr. Lane: Excuse me, Mr. Chairman, is that a question that you would like Mr. McAuliffe to answer?

Mr. Chairman: Yes, I am just asking for your comment on that.

Mr. Lane: As to whether or not his story is pious, sir?

Mr. Chairman: No, do you not think, in effect, that you have identified in the article Ellis-Don?

Mr. McAuliffe: Certainly I identified Ellis-Don.

Mr. Chairman: But have you not identified all of the quotes that you ~~said~~ claim that you wouldn't attribute to them by the very process of deduction?

Mr. McAuliffe: I'm ~~sorry~~ <sup>Sorry</sup> sir, there are no quotes in there ~~attached to~~ <sup>attached to</sup> ~~aside from the one quote in question. There~~ are no other quotes in there ~~attached to Ellis-Don~~ that were used ~~then~~ with anything that I ~~say~~.

Mr. Chairman: But how naive do you have to be not to carry that over when you read the rest of the article, to Ellis-Don?

Mr. McAuliffe: I'm sorry sir, I don't follow your ~~←~~.

Mr. Chairman: All right, whom else are you going to attribute that quote to?

Mr. Lane: I suppose sir, with respect, it would depend who was reading the quote, the article in question.

Mr. Chairman: All right. I suggest, to my mind it is a little pious to ~~say~~ that you haven't identified them there. But maybe that is a conclusion that I should not be reaching at this time.

Mr. McAuliffe: I would hope not, sir.

Mr. Chairman: Any other questions? Mr. Newman.

Mr. W. Newman: Just one question, Mr. McAuliffe. I'm ~~just~~ just going back from memory. You had Mr. Manthorpe's file, is that correct?



H-1164-1 follows





July 10/73  
5.55 to 6.00 pm  
DT

Mr. McAuliffe: I obtained Mr. Manthorpe's file, I guess it would be ~~the same~~ four weeks previously and the file would be used primarily for myself to obtain a broad knowledge of the issue that we were about to investigate and it is my personal practice that I never use anything that has come from a source other than directly to myself, and that while Mr. Manthorpe made reference to the quote ~~that~~

Mr. Shibley: I just want to stop you there, Mr. McAuliffe, and remind Mr. Newman and yourself that Mr. Manthorpe did not testify as to the second portion of the quote. He only went so far as to say that Smith said - "I got a call from someone close to the Premier's office and was told to be quiet." He ~~didn't~~ didn't -- even Manthorpe doesn't take it as far as saying or as far as "I would never get another government contract."

Mr. McAuliffe: That is correct and in my ~~testimony~~

Mr. Shibley: It is <sup>a</sup> significant difference.

Mr. McAuliffe: Yes, in my earlier testimony I think, too, I explained that what I would do is sit down and have a very broad discussion with Mr. Manthorpe as to the background of the issue involved and then we start right from - or at least I start ~~at~~ right from the first step on the investigation and I had been working on it then ~~probably~~ probably for four weeks before I got around to interviewing Mr. Smith.

Mr. Chairman: Mr. Walker.

Mr. Walker: Just one question more, Mr. Chairman, when you placed the telephone call to Smith on the evening of ~~the~~ April 17th?

Mr. McAuliffe: April 16th.

Mr. Walker: April 16th ~~and~~ and after the pleasantries about introducing yourself, and Mr. Manthorpe thanks you for his letter, etc. ~~was~~ was Smith in any way reluctant to talk to you?

Mr. McAuliffe: No, sir.

Mr. Walker: Why did you say he was <sup>on</sup> page 731-2, on June 21?

Mr. McAuliffe: Could I have that?





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5.55 to 6.00 pm  
DT

(Mr. McAuliffe)

Perhaps you could explain to me, sir, what you mean by being reluctant?

Mr. Walker: Well, I am using the words that you used.

Perhaps you could explain to me what you mean by the word reluctant.

Mr. McAuliffe: Whereabouts is *that*?

Mr. Walker: Page 731-2, found, on the evening of June 21, Thursday, five or six pages from the end of my section of the transcript, found at the bottom of the page, the last entry:

"Mr. McAuliffe: I must say it impressed me immensely. I explained to him at the time --"

Mr. McAuliffe: I am sorry. I am just trying to pick you up here.

Mr. Walker: At the bottom of the page.

Mr. McAuliffe: Oh, yes, I see, fine.

Mr. Walker: First of all, just to go back. You had earlier indicated, one paragraph earlier, that "he," referring to Smith I believe, "told me that he had been called several weeks before by a source close to the Cabinet and high up in the Progressive Conservative Party and told to keep his mouth shut or he would never get another government job."

"Shibley: And this so impressed you that you made the ~~explanation~~ exclamation that you have now given?

"McAuliffe: I must say it impressed me immensely. I explained to him at the time that this was the very purpose of our investigation. He was reluctant to talk. I explained to him that he was concerned with involving his company."

Mr. McAuliffe: Yes, he didn't want to get involved in any discussions unless I could give him some assurance that the company's name would be kept out of the paper.

Mr. Walker: Well, what do you mean he was reluctant to talk?

Mr. McAuliffe: You know, what more can I say than that ~~and~~



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5.55 to 6.00 pm  
DT

Walker:

Mr. Walker: Then perhaps you can clear up what

appears to be an inconsistency, in my mind, if he were reluctant to talk, why did he blurt out, as you have just said in the first 60 seconds --

Mr. McAuliffe: Yes.Mr. Walker: -- your famous quote?Mr. McAuliffe: Well that's a question you will have

to ask him --

Mr. Walker: I know but it's an ~~inconsistency~~ inconsistency

in my mind. I can't understand --

Mr. McAuliffe: All I can tell you is that he made

the statement and I explained to him that this was the very purpose that we were investigating the matter.

Mr. Walker: Well, did he say -- "I am ~~am~~ reluctant

to talk?"

Mr. McAuliffe: No, he didn't say he was reluctant

to talk.

Mr. Walker: Well then you must have drawn a

conclusion that he was reluctant to talk?

Mr. McAuliffe: That's right.Mr. Walker: All right, having drawn the conclusion

that he was reluctant to talk, how could you draw that conclusion having just heard him say in the first 60 seconds - you know,

"I was told to keep my mouth shut," a call from close to the Cabinet, <sup>the</sup> Conservative high up in the Progressive ~~Conservative~~ party and told to keep my mouth shut or I would never get another government job." That doesn't sound like being reluctant to talk. Perhaps you can explain the inconsistency. I just can't appreciate what you are saying.

Mr. McAuliffe: I don't see the inconsistency. I

am sorry. I am just telling you what the facts of the interview at the time were. Once I explained to him that there was absolutely no way that Ellis-Don's name would be --

(H-1165 to follow)



July 10, 1973

6.00-6.05p.m.

B.A.

H-1165-1

(Mr. McAuliffe)

~~facts of the interview at the time was. One of the things~~  
~~in mind that there was absolutely no way that Ellis-Don's~~  
~~name would be kept out of that paper, out of the story in the~~  
paper, and he understood it, there was no problem ~~from~~ there on in.  
His initial reluctance was to have his company become ~~involved~~  
involved. And I told him whether he granted the interview  
or not we would still be referring to Ellis-Don.

Mr. Walker: Perhaps you can see the quandary I  
am in. On the one hand, you are saying that he was reluctant  
to talk, and he opens his conversation, after saying "Hello,"  
the next thing he seems to say is something about, ~~the~~ within  
the first 60 seconds as you have said, something about ~~the~~  
well, the famous quote. I just can't see how you draw the  
conclusion that he is reluctant to talk.

Mr. McAuliffe: Well, I can't see how you are in  
the quandary because he made the statement ~~about~~

Mr. Walker: I can't see how I can't help but be  
in the quandary.

Mr. McAuliffe: He made the statement, suggested  
that he didn't want his company's name involved in the story.  
I explained to him that there was no way the ~~the~~ story would  
be written without the use ~~of~~ of the company's name whether  
he agreed to the interview or not; that they were part of the  
story, that we would no doubt turn the company's representations  
up from sources <sup>than</sup> than Ellis-Don by the time we were finished,  
our investigation, and he understood that and agreed to the  
interview the next day, and took steps that night to ~~the~~ arrange  
everything for the next morning.

Mr. Chairman: ~~Mr. McAuliffe~~ Mr. Shibley.

Mr. Shibley: Mr. McAuliffe, I overlooked asking  
you one question. Did you follow up your investigation with  
an attempt to interview Mr. Candy?





July 10, 1973  
6.00-6.05p.m.  
B.A.

H-1165-2

Mr. McAuliffe: Yes, sir, I did.

Mr. Shibley: And did you, in fact, interview him?

Mr. McAuliffe: Well, I called him on, I believe

it was a Thursday, and told him that I ~~he~~ wanted to come to see him, ~~he~~ He told me that he couldn't see me; that the matter was being handled out of Mr. Fleck's office; that a letter had just been drafted by senior officials at Hydro, ~~was~~ a letter addressed to the Premier had been drafted, explaining in detail what he believed were any inconsistencies so far in explaining publicly Hydro's role with Canada ~~and that he~~ <sup>Square,</sup> and that he ~~he~~ couldn't do ~~any~~ anything until the letter had been tabled in the House.

Mr. Shibley: The sequence, as I see it, was you had a telephone call on the 16th with Smith.

Mr. McAuliffe: Yes.

Mr. Shibley: You interviewed him at London on the 17th.

Mr. McAuliffe: Yes.

Mr. Shibley: You attempted to see Candy thereafter.

Mr. McAuliffe: Yes, it would be the following week.

Mr. Shibley: ~~Was~~ When in the following week?

Mr. McAuliffe: Let's see, we ran the story on the 28th, so it would be about the 25th.

Mr. Shibley: About the 25th.

Mr. McAuliffe: Yes, 25th or 26th.

Mr. Shibley: And for the assistance of the committee, the letter to Premier Davis is dated April 25th, 1973. I believe it was tabled in the House, Mr. Chairman, on the ~~25th~~.

Mr. McAuliffe: The 27th.

Mr. Shibley: On the 27th. So your ~~and~~ discussion with Mr. Candy ~~was~~ prior to the tabling of that letter in the House.

Mr. McAuliffe: Yes, sir.

Mr. Shibley: What did you say about Mr. Fleck?



July 10, 1973  
6.00-6.05p.m.  
B.A.

Mr. McAuliffe: Mr. Candy told me that he

couldn't be interviewed; that the matter was being handled out of the Premier's office by Mr. Fleck; that a letter had been ~~written~~ written, or had been sent that day by Mr. Gathercole to ~~PREMIER~~ Davis, clearly explaining and defining the entire issue of Hydro and Canada Square; and that he believed the letter was to be tabled in the Legislature but he didn't know when. He suspected it would be within the next week.

Mr. Shibley: Then, as at the time that you prepared the article of April 30th, was that letter already tabled in the House?

Mr. McAuliffe: Yes, sir, it was tabled on the morning of April 27th.

Mr. Shibley: And did you receive a copy of it to assist you in the preparation of the article?

Mr. McAuliffe: Once it had been tabled in the House I obtained a copy of it, yes.

~~\_\_\_\_\_~~

(Tape H-1166 follows)





July 10/73

6 :05 - 6:10 pm

.C.B.

~~(Mr. McAuliffe)~~~~(Mr. Shibley)~~~~(Mr. Shibley)~~~~the Mr. Shibley obtained a copy of the letter~~

Mr. Shibley: Did you speak to Mr Smith following the tabling of that letter?

Mr. McAuliffe: Yes sir, I did.

Mr. Shibley: That would be ~~from~~

Mr. McAuliffe: Yes, Mr. Smith, that's right.

Mr. Shibley: When was that?

Mr. McAuliffe: It would be probably around - he left for Europe about noon, I think it was the hour before he left.

Mr. Shibley: So that ~~is~~

Mr. McAuliffe: I read him the contents of the letter.

Mr. Shibley: That's what I wondered ~~about~~ <sup>about</sup>. I noticed the article contains references to the letter which the Premier tabled in the House.

Mr. McAuliffe: Right. That is where the explanation came in, sir, of the reference to Ellis-Don officials.

Mr. Shibley: I see.

Mr. McAuliffe: ~~As~~ <sup>As</sup> it refers to the letter to the Premier.

Mr. Shibley: Okay. So that your explanation of that is that having attended to interview Candy, he said there was going to be a letter tabled, you waited upon that letter being tabled.

Mr. McAuliffe: Reluctantly I waited, I told them that I still thought that we should meet.

Mr. Shibley: You then received a copy of that letter, confronted Mr. Smith by phone with certain portions



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C.B.

(MR. Shibley)

of the letter and that's how you got the excerpt that is  
quoted?

Mr. McAuliffe: That is correct sir.

Mr. Chairman: I think you said it was around the  
28th, you meant the 30th didn't you?

Mr. Shibley: Yes the April 30th.

Mr. McAuliffe: Yes the April 30th story.

Mr. Chairman: I think you did mention the  
28th.

Mr. McAuliffe: I'd have to check, but there  
may be some references in the story of April 28th to  
that letter, I'm not sure. I'd have to ... Yes in the  
story of April 28th, which is a Saturday, I see the ~~sub~~ *subhead*  
~~head~~ on page four is "Gathercole letter on Hydro office  
deal tabled in the Legislature," So it was referred  
to actually in both stories.

Mr. Shibley: Did you attempt to communicate  
with Mr. Fleck in any way at that time?

Mr. McAuliffe: No I did not sir.

Mr. Shibley: Thank you.

Mr. Walker: I wonder, MR. Chairman, could I  
take you to April 30, which is the day I believe that  
exhibit 172, the newspaper article, was published. Did  
you receive word that Mrs. Shuttleworth was attempting  
to get a hold of you?

Mr. McAuliffe: Yes sir.

Mr. Walker: Could you offer an explanation as  
to why you did not return her calls?

Mr. McAuliffe: Yes.

Mr. Walker: Would you?





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( Mr. McAuliffe: I believe the first call, I wasn't in the office at any time she did call. But according to the secretary on the city desk I believe <sup>had</sup> she called around 9:30 am - I'm sorry I can't be specific as to times, but it was between 9 am and noon, and had been rude <sup>to</sup> the secretary that she talked to. I came in, I forget what time it was that day, it was much later in the day and I decided to wait until she had settled down and decided to call me back and she never did.

Mr Walker: Well now Mrs. Shuttleworth indicates that she telephoned three times the morning of the 30th. She indicates that the first time you were not in, the message <sup>was</sup> left and you didn't return the call, and that on either the second or third time she talked to an editor who indicated that you were busy because the office was busy that morning you were too busy to talk on the phone.

Mr McAuliffe: That's not true sir, he call was made..

Mr. Walker: That's what she testified, ~~sa~~

Mr. McAuliffe: I can only, you are asking me and I will tell you what I know of the situation. I believe it was after the third telephone call she was called by one of the assistant city editors. I had not come in yet, I don't believe. I had only been in telephone contact with the office, I was out. He called her at my request, I should point out, to ask her what the difficulty was and she refused to discuss it with him, so the matter rested there.

Mr. Walker: Why wouldn't you telephone?

Mr. McAuliffe: Because I was busy.

Mr. Walker: Why wouldn't you telephone again?

Mr. McAuliffe: I believed if she wanted to get in touch with me she would have called me back the next day.



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Mr. Walker: She tried three times, and ended  
up with the city editor.

Mr. McAuliffe: She didn't end up with the city  
editor. She called three times and at my request the  
~~she called three times and at my request the~~...

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~~ended up with the~~ Mr. McAuliffe ~~with the~~

~~Mr. McAuliffe: No, she didn't end up with the~~  
~~She called the times, and at my~~ assistant city editor  
called her and asked her if it was anything urgent, and she told  
him "No," that she wouldn't discuss it with him", and I was still,  
I should point out, on the Hydro investigation. We hadn't let up  
on it at that stage, and I was kept busy 12 and 14 hours a day for  
the duration of that week.

Mr. Walker: It seems strange you wouldn't call her after  
having such ~~an~~ interesting conversations with her a few days earlier.

Mr. McAuliffe: I had had numerous conversations with her  
over the previous week and ~~no~~ no problems.

Mr. Chairman: Gentlemen, are there any more questions?  
Then thank you, Mr. McAuliffe, and ~~we~~ are adjourned until 10:00 a.m.  
tomorrow morning.

~~The~~ The committee adjourned at 6:10 o'clock, p.m.





## APPEARANCES

Committee members:	J.N. Allan
	J.E. Bullbrook
	I. Deans
	M. Gaunt
	L.C. Henderson
	R.G. Hodgson
	W. Hodgson
	J.P. MacBeth (Chairman)
	W. Newman
	J.A. Renwick
	G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Shibley, QC
Assistant committee counsel:	J.P. Bell
Ontario Hydro counsel:	Pierre Genest, QC
	James McCallum, QC
Canada Square counsel:	Douglas Laidlaw, QC
	Blair Cowper-Smith
Counsel to Mrs. A.M. Shuttleworth:	J.D. Brownlie
Counsel to J.J. Barnicke:	A. McN. Austin
Counsel to J.W. Manthorpe and Gerald McAuliffe:	E.M. Lane
Commission architect, Ontario Hydro:	K.H. Candy
Secretary to J.D. Smith:	Mrs. A.M. Shuttleworth
President, J.J. Barnicke Ltd.	J.J. Barnicke
Journalist, The Globe and Mail:	J.W. Manthorpe
Journalist, The Globe and Mail:	Gerald McAuliffe

List of exhibits introduced during this sitting  
appears on next page.



INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Page</u>	<u>Description</u>
182	1133-2	Memo, December 7, 1972, from D. A. Dack to C. N. McCarter, re questions and answers on new head office building.
183	1138-2	Newspaper Clipping - November 3, 1972 The Globe and Mail - "MPP wants investigation: Sargent seeks to stop Fidinam's deal with WCB."

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